

Report of the  
Charity Commissioners  
for England and Wales  
for the year  
1985

*Presented pursuant to the Charities Act 1960, s. 1(5)*

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*Ordered by The House of Commons to be printed  
5th June 1986*

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LONDON  
HER MAJESTY'S STATIONERY OFFICE



## CONTENTS

	<i>Page</i>
1. INTRODUCTION .....	6
2. CHANGES IN SENIOR APPOINTMENTS.....	9
3. CHARITIES ACT 1985.....	9
4. REGISTRATION OF CHARITIES	
(a) Generally.....	9
(b) Employment Institute.....	10
5. THE COMMISSIONERS' DECISIONS ON CHARITABLE STATUS	
(a) Whether an analogy is necessary .....	11
(b) The Consumers' Company .....	12
6. SCHEMES	
(a) Generally.....	14
(b) Cy Près schemes	
(i) Charity of Alexander Michael Levy .....	15
(ii) The Royal School for Deaf Children, Birmingham .....	16
(iii) Over Wyre Nursing Association, Lancashire .....	16
7. SCHEME UNDER SECTION 19 OF THE CHARITIES ACT	
The Booth Charities, Salford, Greater Manchester .....	17
8. PRIVATE BILLS	
(a) Generally.....	18
(b) Alexandra Park and Palace Act 1985 .....	19
9. ORDERS UNDER SECTIONS 23 AND 29 OF THE CHARITIES ACT	
(a) Generally.....	20
(b) Prevention of abuse.....	21
10. INVESTMENT POWERS OF CHARITY TRUSTEES	
(a) Traded Options .....	22
(b) Underwriting new share issues .....	23
(c) Widening investment powers—charities administered by Special Trustees of Teaching Hospitals.....	23
11. INQUIRIES AND INVESTIGATIONS	
(a) Generally.....	24
(b) Fund-raising.....	25
(c) The Association for Mentally and Physically Handicapped Children and Elderly.....	25
(d) Responsibility of Trustees.....	26

## CONTENTS

	<i>Page</i>
(e) Report of an inquiry into the affairs of a charity .....	26
(f) Guru Arjan Dev Gurudawara Sikh Temple, Derby .....	28
12. OFFICIAL CUSTODIAN FOR CHARITIES.....	29
13. CHARITIES OFFICIAL INVESTMENT FUND.....	30
14. CHARITIES DEPOSIT FUND .....	31
15. THE COST OF THE CHARITY COMMISSION.....	31
<i>Appendices</i>	
A. LEGAL DECISIONS AFFECTING CHARITIES	
(a) Attorney General v Ross and Others [1985] 1 WLR 252	31
(b) In re Koepler's Will Trusts [1985] 2 All ER 869 .....	32
(c) Regina v District Auditor ex parte West Yorkshire Metropolitan County Council, <i>The Times</i> Newspaper 25 July 1985 .....	33
(d) Harvela v Royal Trust Company of Canada (HL) [1985] 2 All ER 966.....	33
(e) Street v Mountford [1985] 2 WLR 877 .....	33
(f) Finnart House School. DHSS v Norton and Others. Unre- ported .....	33
B. LEGISLATION AFFECTING CHARITIES	
(a) Finance Act 1985 .....	34
(b) Local Government Act 1985 .....	35
(c) Data Protection Act 1984 .....	35
C. COMMISSIONERS' LEAFLETS	
(a) TP26—The Charities Act 1985 .....	35
(b) TP23—The Charities Act 1985 Alteration of objects of local charities for the poor	39
(c) TP24—The Charities Act 1985 Transfer of property to another charity. Winding up of very small charities.....	43
(d) TP27—The Provision of Alcohol on Charity Premises .....	49
(e) TP25—Charities Acts 1960 & 1985: Charity Accounts .....	53
D. REGISTRATION QUESTIONNAIRE .....	56
E. THE ACCOUNT OF THE OFFICIAL CUSTODIAN FOR CHARITIES FOR THE PERIOD 1 JANUARY 1985 TO 31 DECEMBER 1985 .....	59

REPORT OF THE CHARITY COMMISSIONERS FOR  
ENGLAND AND WALES FOR THE YEAR 1985

Charity Commission,  
St Alban's House,  
57-60 Haymarket,  
London SW1Y 4QX  
7 May 1986

TO THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Sir,

We, the Charity Commissioners for England and Wales, have the honour to make our report for the year 1985 in pursuance of section 1(5) of the Charities Act 1960.

We have the honour to be,

Sir,

Your obedient servants,

D A PEACH, CB

C A H PARSONS

J FARQUHARSON

## Introduction

1. The 25th anniversary of the Charities Act 1960 was marked (by pure coincidence) by the enactment of the Charities Act 1985 which came into force on 1 January 1986. Whilst the provisions of the Act are modest and only affect limited types of charity, they are nevertheless the first direct change to the law affecting charities since 1960 and are designed to secure and stimulate the more effective use of charitable resources. In part they arise from the failure of some trustees to account fully and publicly to the community within which the charity operates, and from the ineffectiveness of many local authority reviews of charities (introduced by the 1960 Act) to achieve the modernisation of trusts and the utilisation of charitable resources in close co-operation with the local statutory welfare services. The accountability of charity trustees and the effectiveness with which they administer the not inconsiderable sums of money entrusted to them are matters of increasing interest calling into question our own responsibilities and the extent to which we can fulfil them.

2. We mentioned in paragraph 11 of our report for 1982 that like other public departments the Commission is affected by cash limits and restraint—indeed reductions—in staff numbers, and to our inability to do as much as we should like or as speedily as we should wish. Our work increases, but staff decreases. A recent Debate in the House of Lords (5 March 1986 HL Cols 179–187, 203–226) highlighted the concern about our resources and the undue delay in dealing with work; the incomplete and out-of-date information held in the Central Register of Charities; the lack of a computerised register; and our insufficient supervision of charities. We recognise and much regret these deficiencies. We hope that at least we may be allowed to keep the staff we have; indeed we should wish for a modest increase.

3. The past years have seen an accelerating movement towards non-permanently endowed charities depending for their funds on annual fundraising, donations, fees and central or local government funding. Charities within the voluntary movement are now more vocal and influential on matters affecting local and central government policies in the fields of social services, health, education, conservation and other areas concerning the wellbeing of the community. At the same time there has been an increasing interdependence between public authorities and charities in the provision of certain services and facilities, giving rise to occasional conflict and difficulty. While charities can be more readily innovative and flexible in their response to need than statutory bodies, and harness expert and voluntary endeavour, some are vulnerable to dependence on public funding. It is for charities themselves, not for us, to judge whether they should accept central or local government help: and to what degree, and on what conditions. The dependence of some charities on funding by the Greater London Council and Metropolitan County Councils has led to problems with the abolition of these bodies.

4. There has been a corresponding shift in emphasis and relative importance in our work in relation to the development of new forms of charitable activity, the structure of charities themselves, the nature of the advice sought by trustees, the perceived need for greater accountability by charities to the public and the central and local agencies funding them, and to our own responsibilities for investigating and checking abuse.

5. We have tried to take account of the change in social conditions in our application of charity law and we have always sought to apply the law in a sensible way so as to reflect changes in society emerging from perceived needs. The effect of the 1960 Act, which required us to keep a register of charities for the first time, has been in many cases to make us the arbiters in the first instance of what is a charity in law in England and Wales (subject only to appeal to the High Court). As we discuss in paragraphs 24 to 27 below we believe we are expected to follow the Court in extending the field of charity by analogy from cases already decided; and that we should adopt a generous as opposed to a restrictive view. This we have sought to do in each of the four heads of charity and particularly in the grey area of the "fourth head"—purposes generally beneficial to the community. We have for example decided that providing advice and facilities concerning contraception can be a good charitable purpose by analogy with the preservation and protection of good health; and that family conciliation services formed to persuade the parties to settle differences relating to custody of children, property and other matters by negotiation before judicial hearing instead of burdening the courts with detailed dispute between the parties, were by analogy directed to the administration of the law directly affecting the social wellbeing of the public and families. Similarly we decided that the promotion of good community relations is, within the context of a modern multi-racial and multi-cultural society, a valid charitable purpose by analogy with decided cases concerning the preservation of public order and the prevention of breaches of peace, or the mental and moral improvement of man. The field of unemployment is more difficult, as we explained in paragraphs 12 to 14 of our report for 1983, but we have accepted as charitable many institutions for the training and retraining of the unemployed and for assisting them in various other ways.

6. In recent years public expenditure restraint has stimulated the creation of new volunteer organisations within communities to meet the needs of those who whether by ill-health or misfortune are intolerably burdened. During the last five years we have registered some 45 charities concerned to provide support and assistance through the provision of home care attendance to families responsible for the care of those who are physically or mentally disabled. Over recent years we have also registered an increasing number of charities established to help those who have been the unfortunate victims of criminal assault; some 70 victim support groups have been registered in the last two years. Both these types of support schemes use voluntary helpers from the local community to provide a service of practical care and assistance.

7. In a similar way we have recognised as charitable organisations set up to meet new problems arising from changing social needs, for example: means to help latch key children; intermediary bodies which promote the effectiveness of other charities; parent-teacher associations; hospices (an increasing trend); local community and amenity associations; organisations devoted to the screening and improving of women's health, particularly cervical screening; various organisations in the field of care of the mentally handicapped; 'half-way' houses; new ventures in the arts and museums; and help for the young to set up in their own business enterprises.

8. We think it significant that by far the greater number of charities now coming on to the register are charities having objects within the fourth head of charity: of the 3,790 charities registered in 1985 nearly two and a half

thousand fell within the fourth head. It is mainly by using the fourth head that we can undertake the task of ensuring that the application of charity law moves with the times.

9. With the development of new forms of charitable activity at a rate which shows no sign of diminishing, and a far greater interest and involvement in the affairs of charity by the public, it is not surprising that we now receive more complaints of various kinds about charities than we did a quarter of a century ago. While this attention on the part of the public and the media may occasionally touch on improper activities by charity, or even on fraud, nevertheless the bulk of the complaints we receive relate to much less serious matters and misunderstood matters. As is evident from the examples which we cite at paragraph 72 below of the wide variety of cases about which the public write to us, many areas of concern do not touch upon mismanagement or misfeasance—many indeed are found to be based on a misunderstanding either of the trusts or of the proper independence and powers of trustees; or arise from disputes among the trustees themselves.

10. We are constrained by our limited resources from scrutinising accounts of all charities; the degree to which trustees as a whole efficiently and effectively manage their trust property is not known to us. It was for this reason as we mentioned in paragraph 7 of our report for 1984 that we decided to introduce a more systematic and selective examination of a limited number of accounts, rather than a random selection. We believe that our limited resources can be concentrated to better effect in examining charities or categories of charities which give us cause for concern. In order to identify those cases we believe it necessary, among other things, to ask some applicants at the time of registration about certain administration aspects and practices which in our experience have proved to be potentially likely to give rise to concern, difficulty or abuse. These problems do not pertain in every case, and consequently we believe enquiry in all cases would be unwieldy and inappropriate and would cause needless work for charities and ourselves. Nevertheless, we propose to ask many applicants to complete a questionnaire (reproduced at Appendix D). We hope that trustees will co-operate with us in completing the form so as to assist us in carrying out our responsibilities under the 1960 Act.

11. The increasingly perceived need for greater public accountability by charity trustees has also been reflected in a call for more detailed information in the accounts of charities. The Accounting Standards Committee, responding to this need, set up a Working Party in 1982 to consider financial reporting by charities and this group, consisting of accountants working in practice and for charities, as well as members of the National Council for Voluntary Organisations and our own staff, have now produced for comment a draft Statement of Recommended Practice. The Statement, developed after wide discussion, recommends the best accounting practice which should be followed and would apply to all charities in the United Kingdom regardless of constitution and size. Although not mandatory, those who prepare financial information would be encouraged to follow recommended practice and explain where they have departed from it. In the light of the comments sought on these recommendations it is expected that the final Statement will be promulgated within the coming year. We greatly welcome the work of the Committee and believe the proposals when implemented will prove to be a significant development in the provision of accurate financial information about charities.



12. In this report we comment in greater detail on particular aspects of our work and in Appendices A and B mention certain decisions of the Courts and recent legislation which affect charities.

### **Changes in Senior Appointments**

13. We record with regret the retirement on health grounds of Mr F W Trinder in September 1985 after 19 years' service in the Charity Commission, the last year as a Commissioner. The Home Secretary appointed Mr J Farquharson as a Commissioner in his place, with special responsibility for our Liverpool office. At the same time Mr J A Dutton was promoted to be a Deputy Commissioner in Liverpool.

### **Charities Act 1985**

14. The Act was brought into force on 1 January 1986. As we said in paragraphs 8 to 11 of our report for 1984 we welcome the measure as a modest and useful reform designed to promote greater accountability to the local community by trustees of local charities for the relief of poverty and to give trustees of these and certain other charities flexibility to modernise trusts or to dispose of funds which they consider can no longer be used effectively. We have produced three leaflets specifically designed to inform trustees about the provisions of the Act and how to take advantage of them; they are reproduced at Appendix C(a), (b) and (c). There is considerable interest in the provisions of the Act, particularly among Rural Community Councils and Charity Information Bureaux, and by the end of the year we had distributed over 10,000 leaflets, and done our best to secure publicity for the new Act, and our leaflets, in charity and voluntary sector publications. A special unit has been set up in our London Office to deal with resolutions passed under Sections 2 and 3 of the Act.

### **Registration of Charities**

#### *(a) Generally*

15. During the year we registered 3,790 charities of which 2,058 were founded in 1985. We removed 166 charities from the register, most because they had wound up or ceased to operate. The total number of charities registered at 31 December 1985 was 154,135.

16. Although the number registered was slightly fewer than in 1984, the number of proposed charities in respect of which we were asked to advise on draft governing instruments rose by some 500 to more than 3,100, a 19 per cent increase over the previous year.

17. In our report for 1970 we charted the progress of registration during the first ten years following the introduction of the central register of charities; the figures below show that during the past 14 years the number of charities registered each year has averaged 3,637 and the number of newly founded charities has shown no signs of decreasing.

<i>Year</i>	<i>Registered</i>	<i>Newly Founded</i>
1971	1967	769
1972	2219	1006
1973	2527	1165
1974	3110	1412
1975	2859	1386
1976	2988	1549
1977	3598	1830
1978	3560	1743
1979	3299	1736
1980	3955	2147
1981	3495	1822
1982	4057	2105
1983	3804	1990
1984	3873	2270

18. One of the essential facilities of the central register is to afford public access, and we are pleased to report that considerable enquiries are made by the public, both by telephone or in person, at our offices in St Alban's House, Haymarket, London and Graeme House, Derby Square, Liverpool. During 1985 we received more than 26,000 telephone calls and 3,000 visits. Copies of the index slips are supplied to local authorities for charities operating in their areas, and increasingly local Charity Information Bureaux are being set up, using the details obtainable from the register to build up detailed information about charitable endeavour in the locality which can be used by grant receivers as well as grant givers and as the basis for stimulating better use of charitable resources. Several regional directories have been, or are being, prepared. We very much welcome this development and are anxious to encourage and assist the work of bureaux wherever possible.

19. 1985 was notable for the overwhelming response of the British public to the needs of those who suffered from famine in Northern Africa and from a series of tragic accidents and disasters, including the Bradford City Football Stadium fire, the Manchester Airport fire and the riots at the Heysel Stadium in Brussels. We were pleased to be able to offer advice to the promoters of the appeal funds set up to assist the victims and families of those who had suffered, and to register the Band Aid Charitable Trust and the Bradford City Disaster Charitable Trust as charities. Difficulties can arise in establishing an appeal trust best suited to the circumstances of the victims of the disaster, and indeed in deciding whether a fund should be a charitable trust or not. We again urge all those who may be concerned—trustees, the legal profession, banks, local authorities—to refer to the Attorney General's guidance of 1981 (reproduced in Appendix A to our report for 1981) and to seek our advice at the earliest possible stage.

*(b) Employment Institute*

20. During the year the Commissioners considered whether, subject to consideration of any objections which the Inland Revenue might raise, we should register the proposed Employment Institute. The main objects of the company as drafted were to be "the promotion and advancement for the public benefit of learning by research into those considerations relating to the political,

economic and social wellbeing and quality of life of the community or any section of it which are relevant to the study of employment and policies aimed at reducing unemployment”.

21. We agreed that this wording was in a charitable form, being directed towards research relevant to the study of employment and policies aimed at reducing unemployment. But was the Institute primarily a political body concerned to bring pressure to bear on the Government to change its policies on unemployment? The Institute was closely connected with the campaigning body “Charter for Jobs”, an all party coalition formed in April 1985 to arouse public concern about unemployment and to promote policies designed to reduce it. There was much publicity about the political implications of the “Charter” as opposed to the Institute. Our enquiries showed that the press coverage had blurred the distinction between the two bodies.

22. We had been told that the two organisations would have identical membership and trustees, and a common director; would share premises and administration; but would have a separate staff engaged on different kinds of work—research on the one hand and campaigning on the other—and separate finances, with the cost of shared facilities being properly apportioned. The programme to be conducted by the Institute appeared to be principally concerned with objective research in the sphere of economics which would be undertaken in part by the staff of the Employment Institute and in part by consultants. There was no evidence that the Institute’s publications would be propagandist or tendentious.

23. We decided that the activities of the Institute would not be so political as to deprive it of charitable status and we have invited application for registration as a charity.

### **The Commissioners’ decisions on charitable status**

#### *(a) Whether an analogy is necessary*

24. As a Board we considered whether, and to what extent, in relation to a novel purpose for public benefit which could be charitable only under the fourth head of the classification laid down in *Re Pemsel* [1891] AC 531, it was necessary before deciding that the purpose was charitable to find some analogy with the purposes recited in the preamble to the Statute of Elizabeth I of 1601 c. 4 or purposes decided by the Courts to be charitable. The point is not academic. We are from time to time pressed to determine charitable an organisation in respect of which it is contended that its purposes are of great benefit and utility to the public even though no reasonable analogy could be found. During the year we considered an application for registration in which the question of analogy was significant.

25. Not all purposes beneficial to the community or of public utility are charitable (*re McDuff* [1896] 2 Ch 451 and *Williams’ Trustees v IRC* [1947] AC 447). Clearly therefore there must be some criterion for ascertaining on which side of the line the particular purposes fall. Criteria have variously been expressed by the Court as purposes analogous to those set out in the preamble to the Statute of Elizabeth I, or to purposes which the Courts have accepted

as charitable, or purposes falling within the spirit and intendment or intention of the Statute, or purposes within the equity of the Statute, or purposes which are charitable in the same sense as those recited in the preamble, or within the purview of the Statute. But in practice, there is little guidance as to practical application of these concepts. In our report for 1966 at paragraph 29 we had indicated that since Parliament had provided for appeals to the High Court from our decisions on charitable status, it was clear that we must reach our decisions as a matter of law, applying the principles adopted by the Court. In paragraph 33 of that report we anticipated that there might not be a regular flow of appeals to the Court, and that this would mean, if we were to try progressively to meet the evolving needs of society, that our decisions would inevitably move further and further away from cases decided by the Court. In fact there have been few appeals against such decisions and it seemed open to us, given the terms of our earlier views, not to restrict ourselves to close analogies. This was not to say that we could ignore our own earlier decisions or those of the Court; but we should adopt a generous as opposed to a restrictive view.

26. The wider view supported by the approach advocated by Russell L J and followed by his colleagues in the Court of Appeal in the *Incorporated Council of Law Reporting for England and Wales v AG* [1971] Ch 626 is that where a purpose is clearly beneficial to the community and of general public utility the question to ask in deciding whether that purpose is charitable is whether there are any grounds for holding it to be outside the equity of the Statute. The approach of the Courts since that case has however been to follow the route of precedent and analogy. It seemed to us therefore that in practice we were required, where a novel purpose is to be considered which may seem remote from any purpose which under the law is recognised as charitable, to find some analogy. The question remained as to how strict that analogy should be.

27. We are clear that we should take a constructive approach in adapting the concept of charity to meet the constantly evolving needs of society. We needed to be clear as to charitable intent within the spirit of the preamble, and in looking to our own decisions and those of the Court and taking into account legislation passed by Parliament we should act constructively and imaginatively. It could be argued that in the absence of a suitors' appeal fund it was incumbent upon us to be robust in looking for analogies and to provide the Court with the opportunity to assist where our views were contested by the Inland Revenue, Attorney General or other interested body. This was not to say that we did not need to find a sufficiently close analogy as a means of deciding what was the spirit and intendment of the preamble in a particular context; indeed to do otherwise would be an abuse of power. But it was difficult to envisage a case otherwise suitable for registration where some analogy could not be found, given a generous as opposed to a restrictive view. Our general approach would be to favour charity.

(b) *The Consumers' Company*

28. We were asked to consider whether certain purposes of the Consumer Association—the non-charitable institution which publishes the “Which” magazines—hived off into an incorporated body limited by guarantee were

charitable. Clause 3 of the Memorandum of Association of the Company declared the objects to be, in part:

- “1. To promote in the United Kingdom in a manner beneficial to the community and for the public benefit
  - (a) the maintenance of proper standards for goods and services available to the public as consumers;
  - (b) the maintenance and improvement of the quality and availability of such goods and services.
2. To promote in the United Kingdom and elsewhere for the benefit of the public in the United Kingdom impartial and scientific analyses of and research into
  - (a) the standard of goods and services available to the public as consumers;
  - (b) ways in which the quality and availability of such goods and services may be maintained and improved for the public benefit and to publish and disseminate the results of such analyses and research to the public”.

A proviso to Clause 3, provided that nothing in the clause should authorise the application of funds “in promoting advocating or supporting or procuring any other person or body to promote advocate or support any course of action of a political nature”.

29. The Inland Revenue had submitted a memorandum of objection to registration based on their construction of clauses 3.1 and 3.2: no objection was raised to the purposes set out in the following clauses 3.3 to 3.6 relating to research, education and dissemination among the public of laws relating to consumer protection, public health and improvement of the skills of horticulture and good housewifery. The Revenue argued first that the objects stated in clause 3.1 of the Memorandum limited the benefits to a narrower class than the community generally, as they were intended primarily for the benefit of consumers and, since the interests of consumers alone do not necessarily correspond with or run parallel to the interests of the public generally, consumers as such did not constitute a sufficient charitable class. We took the view however that the opening words in clause 3.1 defined the beneficiary class as the public and the expression “public as consumers” was descriptive of the goods and services and not the beneficiary class. But even if this were not the case, given the width and diversity of the work to be undertaken by the Company, we should find it difficult to accept the view that the interests of consumers did not run parallel with the public generally.

30. The Inland Revenue also contended that the objects stated in clauses 3.1 and 3.2 were sufficiently wide to permit activity by the Company to promote changes in the law, which would not be a charitable purpose. They argued that we should have regard to the reasons attendant upon the formation of the Company which in their view included the furtherance of the interests of the Consumers’ Association. It seemed possible to us that the Inland Revenue had overlooked the provisions of the proviso to the clause which specifically prohibit political activity. But in any event we were not inclined to attribute to the action of the promoters the motives of promoting changes in the law and the interests of the Consumers’ Association as implied by the Inland

Revenue but not supported by evidence, and we had regard to the words of Mr Justice Slade in *McGowan and Others v AG* [1982] 1 Ch 321 page 346 to the effect that one should not infer that trustees will use unlawful means in carrying out their charitable purposes.

31. The Inland Revenue had further contended that the words “proper standards” in clause 3.1(a) had no certain meaning in the context, thus rendering the sub-clause unenforceable. We thought that these words must mean, in the context of the objects, “standards proper to the public who will use the goods and services” and must include matters such as safety and good design. It seemed to us that the Court could find sufficient guidance from the context in which the words were used to be able to attribute a sufficient meaning to them.

32. We did not therefore uphold the objections of the Inland Revenue. But if the objects stated in clause 3.1 of the Memorandum were to be accepted as being directed to charitable purposes this could only be on the basis of analogy to a purpose mentioned in the preamble to the Statute of Elizabeth I or to some purpose which has been held by the Court to be charitable. Several such analogous cases had been suggested including the decision in *IRC v Clerkenwell Green Association for Craftsmen* [1980] TLR 155 in which the maintenance of standards of crafts and the preservation and improvement of craftsmanship was held to be a charitable purpose by analogy with the principle that the promotion of industry and commerce is charitable. This appeared to us to be the closest suggested analogy with the objects set out in clause 3.1 because those objects were directed to the maintenance of proper standards of goods and services, and the improvement of their quality and their availability. We came to the conclusion that it was not necessary for us to make a determination whether the purposes declared in clause 3.1 were charitable because on the information before us the promoters could carry out all their proposed activities under the purposes declared in clauses 3.2–3.6. There appeared to be no need for the first stated object unless the promoters had activities in mind which the Company would not be empowered to pursue under the remaining sub-clauses; but given the prohibition against political activity it was difficult to see what these activities could be. Sub-clause 3.1 was subsequently deleted and we have now registered the Company as a charity.

## Schemes

### (a) Generally

33. During the year we made fewer schemes. The fall in the number does not, however, represent a lessening of the volume of work carried in our legal divisions. Indeed, we are only too conscious of the delays that occur from time to time in dealing with the increasing number of trustees who approach us for advice on many other matters affecting the performance of their duties, as well as on proposals to make schemes for the modernisation of their trusts. The range of problems which arise from outdated and poorly drafted trust provisions; demographic, social and legislative change; differing opinions within trustee bodies, and the nature and condition of charitable assets, all require individual consideration and advice. We have, however, continued to extend our range of leaflets providing trustees with advice on various aspects

of charity administration—two such leaflets are reproduced at Appendix C(d) and (e) respectively.

34. During the year we made 731 schemes of which 126 provided for the amalgamation or grouping of 677 charities. Of the 126 grouping schemes 46 provided for the administration of 238 charities as single charities. A further 44 schemes provided for the grouping of 300 charities so that although they are administered under a single body of trustees with the same objects they retain their separate legal existence. The remaining 36 schemes provided for the grouping of 143 charities, the charities in each group not necessarily having the same objects but being administered by a single body of trustees. Since the Act of 1960 we have made 3,113 grouping schemes involving 14,984 charities.

*(b) Cy Près Schemes*

35. In paragraphs 28 to 31 of our report for 1984 we described the circumstances which give rise to the exercise of our powers to make cy près schemes to modernise the trusts of charities. It is our practice to be as flexible and imaginative as is open to us and to encourage trustees of defunct charities to look for more adventurous and beneficial uses for their funds. The following cases illustrate how by making cy près schemes we can enable charitable property to be used flexibly when with the changes in social conditions over the years it is no longer practicable for the property to be used, or wholly used, for the purposes envisaged by the donor or founders.

*(i) Charity of Alexander Michael Levy*

36. Alexander Levy who died in 1941 left the bulk of his residuary estate as a fund for the foundation and maintenance of a Surgical Home to be called the Arthur and Alexander Levy Surgical Home, for the reception and treatment of British-born persons of the educated middle classes and their dependants who resided or who had resided in London and who were in reduced financial circumstances, irrespective of creed. The King Edward's Hospital Fund for London was appointed trustee and was given power to accumulate and capitalise income if the Fund proved insufficient for the purpose. After some years it became clear that it was impracticable to build and maintain a separate hospital as intended by the testator. In 1958 we made a scheme which appointed the Edward VII Hospital for Officers as trustee and empowered it to apply the Fund on building, equipping and endowing a wing of the Hospital for the treatment of persons qualified in accordance with the provisions of the original bequest. The wing was built and called the Arthur and Alexander Levy Wing.

37. It subsequently proved impossible for the trustee to run the Levy Wing on an economically viable basis and by a further scheme in 1976 we authorised the trustee to charge patients on terms appropriate to their means, and in so far as the accommodation was not required for qualified patients, to admit as patients other persons on payment of reasonable charges. By 1983, however, the charges levied were in danger of substantially exceeding those paid by patients attending the main Hospital (and indeed other private hospitals in London) and the trustee applied to us for a scheme to discharge the trusts over the Wing and to convert the charity to a grant-making organisation.

38. In September 1985 we made a fresh scheme which repealed previous schemes so that the Wing could be used for the general purposes of the Hospital charity, appointed a new body of five trustees (three of whom were nominated by the Hospital charity) and provided that the income of the charity should in future be applied in or towards meeting the cost of treating those patients at the King Edward VII Hospital for Officers in need of financial assistance who were born in Great Britain (or one or both of whose parents were born in Great Britain), and who are or have been resident in Greater London, or who are the dependants of such persons. Preference is to be given to those who belong to the educated middle classes. The scheme goes on to provide that if and so far as the income cannot be applied in this way the trustees may use it towards the cost of treating such patients at other hospitals in Greater London.

(ii) *The Royal School for Deaf Children, Birmingham*

39. The Royal School for Deaf Children Birmingham was founded in 1812 as a residential school for the education of deaf children. The school had attracted pupils from many parts of the country but the development of an educational policy which favours the integration of deaf children into the ordinary school system had reduced the number of pupils at the school. The governing body considered that the consequent reduction of fee income had made the maintenance of the school no longer practicable and it was closed at the end of 1984.

40. The school occupied a prime site of some 5½ acres near the centre of Birmingham. The premises were held on a long lease from Calthorpe Estates at a concessionary rent but the lease contained provisions which effectively prevented use for purposes other than those of the school. Various proposals had been considered by the governing body with the object of retaining the premises in the service of the deaf and the lessor was apparently agreeable in principle to the modification of the lease.

41. After extensive negotiations we eventually made a scheme appointing the National Deaf Blind and Rubella Association Limited (SENSE) as trustee of the charity and providing for the premises to be used for purposes which include the education of children with impaired hearing, but also extend to the welfare of the deaf in other ways. The scheme also makes provision for the appropriate use of the endowments of the charity in the furtherance of the new trust purposes.

42. SENSE perceives a pressing need in the area for a resource centre to provide a comprehensive range of services for the benefit of children and adults who are suffering both from hearing impairment and from some other disability. It is believed that the centre, called The Midlands Resource Centre for Hearing-Impaired People, will be the largest of its kind in Europe.

(iii) *Over Wyre Nursing Association, Lancashire*

43. The Over Wyre Nursing Association was founded prior to the establishment of the National Health Service in order to provide home nursing for the sick. With the establishment of the National Health Service, its purposes became adequately provided for by other means and its funds gradually accumulated until they reached some £8,500. We were approached by the remaining trustees and members of the committee of the Association with a



view to disposing of the funds. Two suggestions were put to us, first that a sum of not more than £2,000 should be used towards the cost of extending the computer facilities at the medical centre in the area and secondly that the remaining property should be applied towards the cost of equipping and maintaining a hospice in the area run by another charity. We established a short scheme empowering the trustees and the committee to apply the funds of the charity for both those purposes.

#### **Scheme under section 19 of the Charities Act**

##### *The Booth Charities, Salford, Greater Manchester*

44. The Booth Charities comprise the Charity of Humphrey Booth the Elder and the Charity of Humphrey Booth the Grandson. The Charity of Humphrey Booth the Elder was founded by deed dated 18 February 1630 under which property was settled upon trust for the relief of poor, aged, needy or impotent people living in the Town of Salford. The Charity of Humphrey Booth the Grandson was founded by will dated 3 March 1672, under which property was devised upon trust to apply the income therefrom first in repairing Sacred Trinity Church, Salford, and then in relieving the poor of Salford as directed in the 1630 deed regulating the Charity of Humphrey Booth the Elder.

45. A private Act passed in 1846 incorporated the Trustees of both Charities under the name "The Trustees of the Booth Charities", provided that so much of the income of the Charity of Humphrey Booth the Grandson as the Trustees should think necessary should be applied in or towards the repair and maintenance of Sacred Trinity Church and the yard attached thereto and the fittings, furniture and ornaments thereof subject to a restriction that the trustees should not expend a greater sum than would average £30 a year nor would exceed £100 in any one year and directed that the clear income of the Charity of Humphrey Booth the Elder and the surplus income of the Grandson's Charity should be paid over to three Distributors to be applied in relieving poor, needy, aged or impotent persons living in the Town of Salford.

46. The trusts of the Charities were also varied by two Schemes made by the Chancery Division of the High Court of Justice. A Scheme made on 5 November 1903 constituted a new body of Distributors and conferred new trusts in relation to the application of the Elder's Charity and the surplus income of the Grandson's Charity. These trusts were more restrictive as to both the beneficiary class and the ways in which the income could be applied than those contained in the 1846 Act. The other scheme, established on 2 December 1946, authorised the Trustees of the Booth Charities to provide almshouses. This the Trustees have done to such good effect that they have provided over 400 residential flats together with ancillary communal facilities.

47. It became clear to both the Trustees and the Distributors of the Booth Charities that with the increasing income of the Charities the existing trusts of the Charities needed to be modernised, simplified and widened. Particular problems were caused by the financial limitations imposed by the 1846 Act on the amount of income that could be expended in respect of Sacred Trinity Church, Salford, and by the restrictions on the beneficiary class and the manner in which the income of the Charities could be applied which were imposed by the Scheme of 5 November 1903. In the course of discussions on the

provisions to be included in a new Scheme for the Charities, it was also decided in the light of the proposed re-widening of the Charities' trusts and also of the manner in which public funds for charitable housing associations were currently provided, that the housing side of the Charities should be hived off into a separate Charity.

48. The new Scheme for the Charity was brought into effect by the Charities (Booth Charities) Order 1985 which came into operation on 24 December 1985. This Scheme retained the separate bodies of Trustees and Distributors, the Trustees holding and managing the investment land and investments of the Charities and applying the income of the Grandson's Charity applicable for church purposes and the Distributors administering the land and buildings used for the purposes of the Charities and applying the income of the Charities for the other charitable objects. The housing side of the Charities was constituted into a separate Charity called the Humphrey Booth Housing Charity and has as its endowment all the residential accommodation and communal facilities provided by the Charities together with some funds in the Charities Official Investment Fund. The Scheme conferred wider objects on the Booth Charities (other than the Housing Charity). These objects not only embraced the relief of the aged, impotent, or poor but also the relief of sickness, the provision of facilities for recreation and other leisure-time occupation, the provision of educational facilities and any other charitable purpose. The beneficiaries were defined as persons residing in the City of Salford. Wider trusts were also conferred in respect of the liability placed upon the Grandson's Charity to repair and maintain Sacred Trinity Church, Salford, and its yard fittings, furniture and ornaments. The financial limits imposed by the 1846 Act were removed and the Trustees were also empowered to augment the stipend of the Rector of the Church if they and the Distributors should so wish.

### **Private Bills**

#### *(a) Generally*

49. During the year two charities (without reference to us) incurred expenditure in preparing Parliamentary Bills; the consent of the Court or the Commissioners is required before incurring such costs and if trustees proceed without consent they may be personally liable for the costs.

50. The Charities Act 1960 specifically provides that (notwithstanding anything in the trusts of a charity) no expenditure incurred in preparing or promoting a Bill in Parliament shall be defrayed from moneys applicable for the purposes of a charity without the consent of the Court or the Commissioners. The purpose of this provision is to prevent Parliamentary costs being incurred by a charity where the object can be achieved (at no cost to the charity) by a scheme settled by us and given effect to by statutory instrument of the Home Secretary. We should not ordinarily be prepared to consent to a charity incurring expenditure on a Private Bill unless the relief which the charity seeks cannot be secured by a scheme and is such as to justify the expenditure. Moreover it is important not to trespass unnecessarily on valuable Parliamentary time.

51. Although we like to give our consent without undue formality it is important that trustees approach us at an early stage to ensure that the

preparation and promotion of a Bill is the best way forward; and that the proposals are in our view justified. The Attorney General makes a report to Parliament on all Bills affecting charities and in practice seeks our views, through the Treasury Solicitor, before reporting. The advantage of consultation is illustrated by the enactment during the year of the Alexandra Park and Palace Act. Although the question of consent to expenditure of charity funds did not arise, we were able to advise and help throughout its lengthy and difficult preparation.

*(b) Alexandra Park and Palace Act 1985*

52. Alexandra Palace at Muswell Hill, North London, was built in 1875 and run as a private concern. Together with Alexandra Park, it was acquired for the public under the provisions of an Act of Parliament of 1900 in order to prevent the possibility of the estate being sold for development. Middlesex County Council and other local authorities agreed to contribute funds to purchase the estate in return for the right to appoint members of the trustee body. The 1900 Act provided that the trustee body should hold and manage the Park as an open space and hold and manage both the Park and the Palace for the free use and recreation of the public forever. When the London Government Act 1963 came into effect on 1 April 1965 the authorities who appointed the trustees ceased to exist and by an order made in 1966 by the Minister of Housing and Local Government the functions of the trustees and the property they held were transferred to the Greater London Council.

53. By agreement under article 14 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 the GLC transferred the Park and the Palace, and their functions in respect of them on 1 January 1980 to the Council of the London Borough of Haringey whose area included Muswell Hill. A further Act of Parliament was however considered necessary to facilitate Haringey Council's management of the Park and Palace which had no other endowment than the land and buildings. The cost of promoting the new legislation was defrayed by the GLC so it was not necessary for Haringey Council to seek consent for the use of charity funds for this purpose. We were nevertheless very closely involved in the discussions on the proposed legislation, which started in 1979. The matter became extremely contentious locally, principally because local residents had fears about the scale and frequency of events which would in future take place on the charity's property. In 1981 there was a disastrous fire which gutted the Palace building. Three Bills were promoted of which two failed. The third Bill, finally enacted on 16 July 1985, makes certain amendments to the previous legislation, gives further powers of leasing and managing the property and enables charges to be made for car parking. In addition it places Haringey Council as trustees under a new duty to consult an Advisory Committee consisting of 16 persons, of whom eight are Councillors including representatives of the wards closest to the Park and the Palace, and eight are nominated by local residents' associations satisfying certain requirements (which include a requirement that they should not include party political objectives among their purposes). The functions of the Advisory Committee are to promote the objects of the charity and to help the trustees fulfil the trusts by advising them on certain specified matters. The Advisory Committee has the additional task of endeavouring to ensure that no activities undertaken or permitted by the trustees are a nuisance or annoyance to local residents, or detrimental to local amenities.

54. It is hoped that these arrangements will help the Council as trustees to find a satisfactory balance between the interests of those who enjoy the facilities of the Park and the Palace (which is to be restored) and those who live in the immediate neighbourhood.

#### **Orders under sections 23 and 29 of the Charities Act**

##### *(a) Generally*

55. During the year we made 3,854 orders; more than 80 per cent related to land transactions. There were 1,704 orders authorising charity trustees to sell property (a significant drop over previous years which to some extent reflected the sluggish market outside the south east of England). We made 1,056 orders authorising purchases, leases, exchanges, grants of easements etc; and 121 orders excepting specific property transactions from the requirements of section 29 of the Charities Act 1960. We made 313 orders authorising trustees to borrow on the security of charity property, and 97 orders authorising trustees to release rentcharges.

56. In those cases where it was proposed to sell charity land and in which we decided that notices should be published inviting higher offers, approximately 50 per cent resulted in sales at a higher price. One case is of interest not only because of the greatly enhanced price at which the land was sold following the publication of notices but also because of the nature of the original offer.

57. We were asked to consider a proposal by the governors of a school that a playing field should be sold to raise funds urgently required if the school was not to be forced to close. The playing field was about  $4\frac{1}{4}$  acres, some  $1\frac{1}{2}$  miles from the school buildings and used by the school for about 3 hours each week. We were informed that local planning authority policy required that the field should remain in its current use and that the possibility of any change in policy within the next 10 years to allow residential or other development of the field was remote. The governors' surveyor considered the open market value of the land to be no more than £30,000. He advised the governors that since attempts to interest commercial estate developers had so far failed, the best price was likely to be achieved by negotiation with a private limited company specifically formed by members of a syndicate, including some of the governors of the school, to purchase the property at an enhanced value with a speculative view of possible future development.

58. We had been kept informed of these proposals and had advised the governors that if any of their body were to act as purchasers they could not take part in the discussions or vote on the proposals. Moreover it would be necessary not only to publish the usual notices inviting higher offers or objections but to publicise the fact that the sale was to a company of which some of the governors were directors.

59. The company subsequently made an offer of £54,000 in cash, shares to the value of £6,000 in the acquiring company and a licence to the school to use the playing field one day a week so long as the company maintained it for leisure and recreational purposes. Following the publication of our notices

other parties became interested in acquiring the field. After exhaustive negotiations between the governors, their professional advisers and all parties who had expressed an interest in purchasing the field, we finally authorised the sale at a price of not less than £200,000. The sale to a major building company was completed on 15 October 1985.

*(b) Prevention of abuse*

60. The number of cases of abuse in charity land transactions over the years has been extremely small; on the whole the complaint most frequently made is that the need for consent under section 29 of the Charities Act and our procedures impose an unnecessary restriction on the discretion of trustees. We see considerable virtue in the restrictions (as we explained in paragraphs 74 and 75 of our report for 1983). During the year, however, two cases in London, in which both the trustees and ourselves were misled, were given some prominence in the media and in Parliamentary Debates; and calls were made for us to take more stringent action to protect charity trustees.

61. Both cases turned on whether representations to us were made in good faith; on whether trustees had properly been informed about the circumstances of proposed sales; and both ended in criminal charges.

62. We are concerned to do all that is properly within our powers to protect charitable endowment and we have again reviewed our procedures for authorising the sales of charity property. It has to be stressed, however, that in giving consent to sales of charitable property we are concerned to ensure that the trustees have power to enter into the transaction; that a sale is in the best interests of the charity; that the trustees have taken and are acting in accordance with the recommendations of professional advisers; and that the terms are the best reasonably obtainable in the circumstances (a legal requirement on trustees). In matters regarding charity land we can insist that certain precautions are taken and professional advice followed so that the trustees may come to a proper decision. But to go further would place us in danger of directing action independently of the trustees, and of breaching the prohibition in section 1(4) of the Charities Act that we may not act in the administration of a charity. It is the trustees who should know about the state and condition of their properties and the probity and ability of their employees and advisers: we must necessarily rely on what they and their professional advisers tell us.

63. No system can be devised to prevent fraud, malpractice or abuse by those determined to break their trust and sufficiently skilled to manipulate events to their own advantage. The charity world is as vulnerable as any other. We are anxious to do whatever is open to us to tighten up procedures, without risking alienating trustees, or causing unnecessary delays or additional expense, so as to minimise the risk of abuse. Bearing these considerations in mind we shall in future ask trustees to certify that the property advice they receive is from a professional adviser, or to explain why they have sought advice from a person who is not qualified. We also intend to ask them to certify that a prospective purchaser is not a trustee, a relative of a trustee, an agent or servant of the trustees, or a company or business in which such persons have a major interest. We shall continue our existing practice of asking surveyors to give an account of repairs and structural defects which have a detrimental effect on the value of the property; and we shall ask in all cases where developed

land is to be sold without vacant possession for a valuation of the site unencumbered by tenancies and the like. Further safeguards which we shall consider in more detail include whether we should name the purchaser in our orders, so as to reduce the possibility of an unscrupulous agent representing to the trustees and ourselves that the sale is to a tenant in occupation who in reality has been bought out.

64. We believe the proposal that a second opinion should be sought from the District Valuer could be useful in certain circumstances. But in many cases (such as charity to charity sales, auctions, sales by tender) it would serve no useful purpose and merely incur needless duplication, expense and delay. We recognise, however, the value of obtaining a second opinion where we hold reasonable grounds for doubt as regards the proposed price or the methods adopted for marketing the property.

### **Investment powers of charity trustees**

#### **(a) *Traded Options***

65. During the year we were asked whether it was open to trustees of charities with unlimited powers of investment to invest in traded options irrespective of the size of the charity's assets. As we understand it, traded options are a means of securing the right to buy or sell stocks or shares in a range of large companies listed on the Stock Exchange at an agreed price within a stated period. They can be bought or sold independently of the underlying security at any time until the expiry date of the option. The selection made by the investor depends largely on whether the share price of the underlying security is expected to rise or fall and how long the investor thinks this would take to happen. Because a traded option costs only a fraction of the price of a share in the underlying security, a small movement in that share price can produce a very substantial movement in the value of the option. If the price of the share falls, a traded option to buy shares may become worthless in which case the entire outlay would be lost. On the other hand traded options reduce the amount of capital an investor need put at risk to support an investment opinion.

66. The borderline between what constitutes an investment and what constitutes speculation is narrow; but we were agreed that a distinction could be drawn between investment in stocks and shares on the one hand and speculation in a fast wasting asset, such as traded options, on the other. To some extent all investments are speculative; Parliament, the Courts and the Commissioners recognise this by, among other things, limiting the type of equity stocks or shares which may be acquired by trustees of charities who have not been given wide powers of investment in a governing instrument. Such authorised investments ensure income-producing rights unlimited in time and secured on the performance of the company and ultimately its assets. Traded options on the other hand represent short term speculation which if mistaken could result in early loss of capital. We were agreed that traded options were not investments in the usual sense of the word and that even an investment clause giving charity trustees powers of a beneficial owner did not authorise them to purchase options.

67. We took this view notwithstanding that the Court in *The Trustees of the British Museum v HM Attorney General* [1984] 1 WLR 418 empowered the trustees of the British Museum to invest in traded options. In our view the decision should not be taken as authority for all trustees with wide powers of investment to speculate part of their endowment in this way, and in the absence of further guidance from the Court we were of the opinion that the safer view is that, except where specifically authorised, the purchase of options is not permissible by charity trustees even though they may have the investment powers of a beneficial owner.

68. We were also agreed that options were not the kind of property which was susceptible to being held by a custodian trustee and that the Official Custodian for Charities should decline to hold any interest in such property. The nature of the property itself and the difficulties of secure control in particular presented problems which justified the Official Custodian's refusal to hold them.

(b) *Underwriting new share issues*

69. We were also of the view that the underwriting of issues of stocks or shares by charities is not authorised by Statute and we would not give authorisation to any particular charity to engage in it. As we understand it, underwriting consists of undertaking to buy a proportion of newly issued shares not taken up by the public, with the benefit of a commission payment if the issue is fully subscribed. Risk arises where an issue fails, the shares prove a bad bargain and market conditions make the purchase price hard to raise. It is therefore in our view too speculative, and inappropriate to charity trustees to underwrite share issues, even if possessed of investment powers akin to that of a beneficial owner. Underwriting could only be undertaken if specifically authorised by the charity's governing instrument.

(c) *Widening investment powers—charities administered by Special Trustees of Teaching Hospitals*

70. In Appendix F(d) of our report for 1984 we reported that the Vice Chancellor had made an order widening the powers of investment of the Special Trustees for the University College Hospitals in London and including ancillary provisions designed, subject to certain safeguards, to authorise or formalise arrangements for the delegation of such powers to a finance committee of the trustee body and to investment managers. Several bodies of Special Trustees have subsequently asked us to make schemes along these lines. We were pleased to accede to these requests but with some minor modifications to the lines laid down by the Court. In particular we believed that the power to invest in land should not be restricted by reference to its annual value. Investment in leasehold property should be restricted to leaseholds having at least 60 years to run. In general the power to invest in land should be limited to a percentage of the relevant fund, as in the scheme devised for the British Museum referred to in paragraph 67 above. We also took the view that the power to invest in unit trusts should not be confined to "authorised" unit trusts within the meaning of the Prevention of Fraud (Investments) Act 1968 or the Prevention of Fraud (Investment) Act (Northern Ireland) 1940.

71. While we recognised that the past performance of a fund was one of the factors identified by the Vice Chancellor in the British Museum case as

relevant to his decision to widen the powers of investment, we took the view that we ought to assume in the absence of evidence to the contrary that if the Special Trustees are themselves satisfied with the performance of their fund we need not raise detailed questions provided that the investment decisions have been made on the advice of competent financial advisers.

### **Inquiries and Investigations**

#### *(a) Generally*

72. We received about 1000 complaints in the year—there were many more letters, but some of these were concerned with the same topic. Except in those cases where we clearly have no power to intervene (or indeed where our intervention would be counter-productive), we always investigate complaints. They may turn out to be misconceived or even malicious; but they may be a genuine indication of something seriously amiss. We receive allegations that charities are running campaigns of various kinds not thought to be open to them; that they are engaging in “political” activities; that there is serious misappropriation of charitable funds; or that trustees are benefiting from their charity in various ways or have committed other breaches of trust or fiduciary duty. There are faction-fights amongst opposing committees or trustees, each claiming to be the properly elected body. Complaints of unconstitutional behaviour; inadequate financial controls; or other administrative malpractices more often arise from weaknesses in the charity’s administrative procedures; or plain personality difficulties. These are particularly time-consuming where the accuser becomes obsessive and is unwilling either to let the smallest matter rest or to accept that there are limitations on our powers to intervene. Other complaints concern dubious methods of fund-raising which may bring either the charity or charity generally into disrepute; suspicion is occasionally voiced that money collected is principally benefiting the collectors. We sometimes receive allegations of deficiencies in the treatment of beneficiaries by trustees. More frequently, disputes between trustees and the supporters or members of the charity arise over policy issues which are properly within the trustees’ discretion. We are aware of cases where a charity is being used to further a power struggle or even personal vendetta. There are also persistent complainants on all manner of subjects who simply will not accept that we have no jurisdiction to intervene in their area of concern.

73. We doubt whether our predecessors would have foreseen the wide variety of complaints which we now receive. We do not believe that charity is less competently managed now than in the past—it is rather that the public at large has become more concerned about the ills which charities can remedy, and therefore more vigilant when they believe something may be amiss. Increased press and other media attention fuels public interest, a change which we welcome. As evidence of this increased interest we have had a considerable increase in both our London and Liverpool offices in inquiries from the media and in telephone calls and letters from the public. There has however been no significant increase over the years in the number of formal statutory inquiries set up under section 6 of the Charities Act, for our experience has been that these formal inquiries can be cumbersome and time-consuming; quicker and more effective and in some cases less rancorous results can be achieved by informal investigation. Where there is any evidence of fraud or other criminal



activity we pass it to the police immediately. It is not for us to try to pursue criminal investigations.

*(b) Fund-raising*

74. We continue to feel concerned about the methods of fund-raising used by some charities—and by some commercial fund-raisers acting on their behalf. We report in paragraphs 79 to 85 below about the affairs of a national charity which was subject to a formal inquiry by us under section 6 of the Charities Act 1960 and where we found that the trustees had not exerted proper supervision over fund-raising carried out in the name of the charity. Particular matters of concern arise where trustees do not adequately control collectors acting for them either on a voluntary or a commission basis; where the means used to raise funds arouse distaste or annoyance and so bring the charity or charity in general into disrepute; or where the proportion of the money raised which is kept by the fund-raiser is not disclosed, and the public or the press become suspicious that excessive sums are retained. Aggressive sales techniques and over-emotional appeals for funds can also arouse resentment and mistrust.

75. Another source of suspicion comes from the practice of allowing a commercial company collecting and selling goods to use the charity's name in return for a fixed payment regardless of the amount of profit made from the items collected. This arises particularly where the company implies that all the proceeds from the sale of the goods collected will be handed over to the charity. We cannot condone the view taken by some trustees that it does not really matter how funds are raised or how much profit is made by a non-charitable fund-raiser so long as some money comes to the charity which it would not otherwise receive. The public should know how much of their donations whether in cash or in kind is being swallowed up by the costs of the method of appeal or by the expenses and profit of a commercial fund-raiser. As we have said before, trustees operate in the public domain—there is no such thing in trust law as a “private charity”—and should always act in the light of day and make known the real costs of any appeal. Many in the voluntary movement share our concern, and it was in response to that concern that the Institute Of Charity Fundraising Managers was set up to establish codes of conduct on fund-raising. We very much hope that the Institute's endeavours will discourage the unscrupulous operator and encourage the public to have greater confidence in charitable appeals generally. A working party under the aegis of the National Council for Voluntary Organisations is considering whether changes in the law governing charity fund-raising should be recommended to Ministers.

*(c) The Association for Mentally and Physically Handicapped Children and Elderly*

76. In paragraph 2 of our annual report for 1983 we mentioned that we had received a considerable number of enquiries and expressions of concern about the high level of expenses incurred by the collectors working for some newly established charities for the disabled; we welcomed the exposure given in the press, and mentioned that the police were carrying out an investigation. One of these charities was called the Association for Mentally and Physically Handicapped Children and Elderly, otherwise known as AME.

77. The charity was registered in February 1983 and by the autumn of that year we had received a number of complaints about the collecting activities, not least from local authorities all over the country who had been asked for licences under the House to House Collections Act 1939. We requested accounts from the charity which revealed that grossly disproportionate amounts of money had been paid on commission and expenses. We set up a formal statutory inquiry under section 6 of the Charities Act. Since it seemed that the property of the charity might be in danger, we suspended all transactions by the trustees and in particular prohibited any further appeals and froze the property of the charity held in its various bank accounts. The national organiser of the charity was charged with theft, forgery and false accounting and eventually convicted on all three charges and sentenced to terms of imprisonment.

*(d) Responsibility of Trustees*

78. Where charities have suffered loss as a result of fraud it is generally the case that opportunity for abuse arises because the trustees have not exercised proper control over the affairs of their charity. The primary responsibility for the protection of charitable property rests on charity trustees; it is for them to ensure that the way in which they administer their charity is not open to exploitation by unscrupulous associates or employees. No system can be foolproof against deliberate misdeeds or misconduct; but trustees must ensure that their systems of control are rigorous and constantly maintained. Trustees should never, for example, leave the running of the charity unchecked to a member of staff or, indeed, to one or two of their own number, however trusted they have been regarded. To be a trustee is not a sinecure. Trusteeship carries legal responsibilities and duties. Obligations are not ended when functions are delegated; the duties and responsibilities extend far beyond attendance at a given number of meetings each year or merely conferring some form of distinction upon the trustee body by virtue of their name or position in society. In paragraphs 60 and 61 we refer to two cases where insufficient control by the trustees enhanced the opportunity for fraud and in the following paragraphs we detail some of the findings of an inquiry into the affairs of a charity where lack of supervision by the trustees led to fund-raising abuse.

*(e) Report of an inquiry into the affairs of a charity*

79. Over the past 20 years various fund-raising methods used by those raising moneys in the name of a national charity established to support research into diseases in children had given rise to periodic and increasing complaint. More recently these complaints have been principally concerned with house to house collections, particularly in relation to collection and sale of secondhand goods, the commissions received by collectors and the failure of the trustees to exercise proper control. The legal status of the fund-raisers and their relationship with the charity were not clear, but the information before us strongly suggested that the trustees failed to exercise proper and effective control over fund-raising carried out in the name of the charity. We thought that the matter needed to be investigated and instituted a formal inquiry under section 6 of the Charities Act 1960.

80. The charity arose from an offer made by its founder to the House Governors of the Great Ormond Street Children's Hospital to raise funds for paediatric research carried on at the Hospital and elsewhere. The trustee body

originally consisted of three persons connected with the Hospital, three members of the House of Lords, the founder and his brother. Four of the original trustees had died and not been replaced by persons of similar experience; the remaining member of the House of Lords had resigned as a result of the charity's adverse publicity.

81. At the time of the institution of the inquiry three contracts had been entered into with people who conducted house to house collections of unwanted articles and then sold them in shops. The contracts were in a common form under which in return for the use of the charity's name the contractor agreed to pay to the charity £100 a week for every shop which he ran, plus all the profits less certain charges and expenses. The inquirer found that in practice the contractors had retained everything except the fixed payment of £100 a week for each shop. The system of control over the contractors described by the founder and secretary differed from that described by the auditors. The auditors indicated that the practice of requiring contractors to submit financial statements in accordance with the terms of the contract simply did not exist; the trustees merely accepted the payments which were made and neglected taking even the most rudimentary steps to ensure that they were receiving all the sums due. On the evidence, the inquirer found that previous arrangements for the commercial exploitation of the charity's name with individuals and companies conducting salvage operations or football pools or similar competitions or lotteries or selling goods door to door were monitored in the same casual fashion. The inquirer reported that during the conduct of the inquiry the trustees had terminated all three contracts. The auditors were pressing the trustees to obtain adequate closing financial statements from the contractors and a proper account of all sums owing under the contracts, including sums due for damages for breach of contract.

82. The charity had also operated a system of fund-raising through the use of collecting boxes in places of public resort. The collections were organised on an area basis by agents (there were said to be three at the time of the institution of the inquiry). Under the contract the agents retained 10 per cent of the gross taking and after paying out-of-pocket expenses remitted the balance to the charity. The system of control which the charity was supposed to exercise was not confirmed by the auditors, who said that they had never seen financial statements alleged to have been submitted by the contractors. The evidence suggested that the trustees had simply accepted what had been remitted to them. The trustees had now terminated all the arrangements with the local organisers of the box collections and were being pressed by the auditors to obtain adequate financial statements from the contractors and a proper account of all sums owing under the contracts.

83. The inquirer had found no evidence of bad faith on the part of the trustees, nor any evidence to support allegations that any of the trustees had received financial benefit from the persons with whom the charity had contracted. Nevertheless, the inquirer was of the plain view that the trustees had caused loss by their failure adequately to monitor the contracts. The inquirer reported that the trustees had decided that for the future they would simply rely for income on direct donations made to the charity as a result of appeals from known supporters, on public advertisement, and on investment income. The trustees had given assurances that they would take all appropriate steps to prevent the unauthorised use of the charity's name, particularly by the people whose contracts had recently been terminated.

84. In the opinion of the inquirer the funds which had been received by the charity had been honestly administered although there had been a measure of inefficiency on the part of the trustees. Movements in the banking account were all properly supported by vouchers and there was no substance in the allegation that some grants recorded in the accounts had not been made. A clear method of presenting the accounts had been agreed and other matters concerning the better administration of the charity were being dealt with. Among other matters, the inquirer recommended that the trustee body should be strengthened. There was no evidence of misapplication of money received by the charity, and in view of the termination of the fund-raising contracts the inquirer did not recommend removing any of the trustees or the charity's officers. The trustee body had however failed to exercise proper control over the fund-raising activities carried out in the name of the charity and it was desirable to strengthen the body with persons prepared to take an active part in all decisions concerning its administration. Reforms under way or promised should also be monitored and regular submission of accounts sought.

85. We accepted the inquiry report. We considered it should be made clear to all the trustees that the affairs of the charity had been grossly mishandled. We emphasised the need for the charity to be administered by trustees fully prepared to take an active part in decisions concerning the administration of the charity. The trustee body should consist of people willing and able to give time to the oversight of the charity's general administration, and not leave this function to the promoter or a small group within the trustee body. The trustees have co-operated with us in implementing these reforms.

*(f) Guru Arjan Dev Gurudawara Sikh Temple, Derby*

86. In paragraph 50 of our report for 1984 we referred to the limitations of our powers to resolve internal disputes which regrettably occur from time to time in religious charities. If all attempts at mediation fail, the only recourse may be to the courts with the unnecessary expenditure of charitable funds on attendant legal expenses. Such a dispute arose in 1985 between a group of members of this Sikh Temple in Derby and the Temple's executive committee regarding the procedure for holding elections to the executive committee. It was alleged, among other things, that the executive committee had not kept proper records of membership. At the request of both parties, we made strenuous efforts to resolve the dispute, assisted by officers of the Derbyshire Constabulary. A senior member of our staff made three visits to Derby to try to seek agreement between the parties. All our efforts to mediate, however, proved unavailing. Accordingly, on the application of the group opposed to the executive committee, we agreed to make an order under section 28 of the Charities Act 1960 authorising the group to take legal action in the Chancery Division of the High Court for various reliefs, including directions for holding elections to the executive committee. The Attorney General was joined, at his own request, as a party to the proceedings.

87. The motions were heard by His Honour Judge Micklem sitting as an additional Judge of the High Court. The Judge indicated that he was minded to make an order for the establishment of a scheme directing the holding of new elections after the re-registration of members entitled to vote. The Judge then adjourned the notices of motion to allow Counsel for the Attorney General to prepare a scheme for approval. On the application of the plaintiffs, we

agreed to make a further order under section 28 of the Charities Act authorising them to seek the additional relief indicated by the Judge.

88. On the resumption of proceedings, the Judge approved a scheme for the interim administration of the charity. The scheme gave directions for the appointment of the solicitors acting for the respective parties to be the election officers, for the registration of members of the Temple entitled to vote at an election of the executive committee; for the holding of an election to the executive committee; for the convening and procedure of the first meeting of the new executive committee and for the new committee after its first meeting to apply for a scheme to replace or vary the constitution of the Temple. An election was duly held on 14 December 1985 in accordance with the directions given in the court's scheme and a new executive committee was elected to administer the Temple.

89. The Judge ordered the parties to bear personally their respective costs of and occasioned by the proceedings. He further ordered the costs of the Attorney General to be met on a common fund basis out of the Temple's funds. In our view the order made by the Judge in relation to costs carries an implicit warning to trustees against unnecessary litigation.

#### **Official Custodian for Charities**

90. Charity trustees who receive income from securities held in the name of the Official Custodian for Charities will be aware that from 1 July 1985 the manner in which they received it changed. The change resulted from the introduction of a computerised accounting system and now provides trustees with information in the format described in Appendix C to our report for 1983.

91. Conversion to the new system has been a massive task involving the translation of accounting records for over 40,000 charities. This translation necessitated the maintenance of manual and computer records of holdings in parallel for an extended period. Whilst balances were verified against registered holdings of securities standing in the name of the Official Custodian during the early months of computerised working some discrepancies were discovered and led to delays in the payment of some dividends. We regret this delay and are grateful to trustees for their understanding of the difficulties experienced during this initial period. Arrears of work caused by the system conversion have now been largely cleared and we are pleased to report that by the end of the year the majority of income payments were no longer subject to abnormal delay. The computerised system should enable the Official Custodian to remit all dividends and interest received on British investments gross within a few days of the receipt of the net income from the Registrar and to pay interest on British Government Securities on the due date.

92. The new system enables the Official Custodian to provide charity trustees with statements which include details of stockholdings, and of dividends and interest paid during the period covered by the statement. The statements are automatically despatched to those charities for which the Official Custodian holds details of the current correspondent at least once a year, or more frequently if requested, on dates which meet the accounting needs of the charity concerned. The stockholdings shown on statements to be issued in

1986 will be certified by the Official Custodian and the requirement for verification of separate lists of securities ought to be avoided. The new service has been favourably received by charity trustees.

93. The new computerised accounting is by contract entitlement and holdings and transactions are recorded in numbers of shares or units rather than in nominal sterling values. The Official Custodian's records should therefore correspond with the sales and purchases of securities made for each charity. The changes have meant that the accounts of the Official Custodian for 1985 have had to be divided into two parts: the first part for the period from 1 January to 30 June and representing transactions under the old delivery accounting system and the second part for the period from 1 July to 31 December and representing transactions effected by contract entitlement under the new computerised system. The accounts of the Official Custodian for the year are set out in Appendix E.

94. The total of dividends and interest remitted to charity trustees rose from £72m in 1984 to £80m in 1985, an increase of more than 11 per cent.

#### **Charities Official Investment Fund**

95. In their report for 1985 the Trustees reaffirm their policy to maintain a diversified and well spread portfolio while aiming for income growth. Accordingly only a small proportion of the portfolio is in fixed interest stocks (2.2 per cent excluding convertibles) but a substantial proportion is invested in overseas equities and land and buildings (19.5 per cent of the portfolio). The Trustees believe that the concentration of the portfolio mainly in equities has resulted over the last five years in a 16.7 per cent a year rise in the value of an Income Fund share and a rise in the dividend by 8.1 per cent a year compared to an annual inflation rate of 6.4 per cent over the period. Most of the growth in the year came from UK equities and convertibles which make up just over three-quarters of the Fund and rose by 12.1 per cent. This underperformance of 3.1 per cent against the FT-Actuaries All Share Index is mostly explained by the strength of British Telecom, the Fund's policy of excluding Brewers and Distillers and underweighting in the low-yielding Stores sector. Property again proved a disappointing investment and at 31 December represented only 3.7 per cent of the portfolio.

96. The Trustees have again reduced the proportion invested in fixed interest stocks for the Accumulation Shares portfolio and most of the new money was invested in the UK equity market to take advantage of its strong performance. A small proportion, however, was invested in Europe where favourable economic and currency trends made for a strong stock market performance. The strength of sterling held back the contribution from overseas where the United States and Japanese equities and convertibles (15.6 per cent of the portfolio) substantially out-performed their respective indices. The Trustees note that the management expenses of the Fund amount to 12p per £100 of capital less than a quarter of the charge made by commercial unit trusts.

97. The Income Share value rose from 293.37p to 320.64p a rise of 9.3 per cent during the year and the dividend per share was increased from 15.7p to 17.7p, a rise of 12.7 per cent which compares with an inflation rate of 5.7 per

cent for the year and an average dividend growth in the United Kingdom of 12.8 per cent. The value of the accumulation shares increased from 798.89p to 916.45p an increase of 14.7 per cent. The number of Income Shares in issue rose from, in thousands, 918 to 51,755 and their total value rose by £16,805,000 to £165,947,000. The number of Accumulation Shares in issue rose by, in thousands, 2762 to 2764 and their total value rose by £5,508,000 to £25,332,000.

98. Mr B Robarts retired as a Trustee of the Fund in October 1985 and we wish to record our gratitude for his wise counsel over the last five years as a Trustee.

#### **The Charities Deposit Fund**

99. As we reported in paragraph 61 of our report for 1984 the Charities Deposit Fund was established by a scheme made by us on 1 February 1985 under section 22 of the Charities Act and the Fund started operations on 1 March 1985. We are pleased that the Trustees are able to report an excellent reception since the Fund started. After ten months' operation the Fund has attracted £24.5 million in deposits in 1,578 charity accounts. The Trustees believe that the Fund has proved popular not only on account of the competitive rate that has been paid but also because of its convenience and ease of operation. The average deposit rate paid by the Fund in the ten months to 31 December was 12.59 per cent (Compounded Annual Rate), in line with comparable money market Funds.

#### **The cost of the Charity Commission**

100. The cost of the Commission for the financial year 1985-86, in Vote terms was estimated to be £5,297,000. Out of this, £4,892,000 was for wages and salaries and other administrative expenses, and £405,000 was for computer facilities for the Official Custodian for Charities.

### **APPENDIX A**

#### **(Paragraph 12)**

#### **LEGAL DECISIONS AFFECTING CHARITIES**

##### *(a) Attorney General v Ross and Others [1985] 1 WLR 252*

In this case the Students' Union of the North London Polytechnic were proposing to pay out of the funds of the Union £5,000 to the striking miners, and a further £5,000 for the relief of those suffering from the famine in Ethiopia. The Attorney General considered that the proposed payments would be outside the scope of any of the objects in the Students' Union's constitution and commenced legal proceedings for an injunction to restrain the Union from making those payments. The preliminary point to be decided was whether the Attorney General had any locus standi in the matter. If the Union was not a charity, then, even if the payments were ultra vires, the Attorney General could not intervene. If, however, the objects of the Union were exclusively charitable then he had an undoubted locus standi to maintain the action as protector of charities.

In holding that the Union was formed and existed for the charitable purpose of furthering the educational function of the Polytechnic, Mr Justice Scott followed the decision of Mr Justice Brightman (as he then was) in *London Hospital Medical College v IRC* [1976] 1 WLR 613, where it was held that the test to be applied in such cases was whether a particular students' union was established to further the work of its associated school of learning or whether as one of its objects it existed for the private and personal benefit of its members, in other words, whether the Union was to be regarded as being part of the academic establishment or autonomous. If it is part of an academic establishment and that establishment is charitable, then so is the Union. On the other hand if the Union is autonomous then whether it is a charity depends upon what is said in its own constitution. Applying that test, Mr Justice Scott had no difficulty in deciding that the Union was established by the North London Polytechnic in furtherance of the Polytechnic's educational purposes and that the constitution given to it by the Polytechnic did in fact further the educational purposes of the Polytechnic, thus giving the Union charitable status.

That status was not affected by the Union's affiliation to the National Union of Students (not itself a charity) at a substantial annual fee: nor by the inclusion among its objects of an object to provide and develop political activities among its members. The learned Judge could see nothing to prevent an educational charity "in furtherance of educational purposes encouraging students to develop their political awareness or to acquire knowledge of, and to debate, and to form views on, political issues", and he further held that this could include the formation of a political club or clubs of any colour.

In considering whether the constitution of the Union was or was not charitable the Judge decided that regard must be had "to the content of the constitution construed and assessed in the context of the factual background to its formation". This did not prevent the Court from looking at the activities of a charitable organisation subsequent to its formation where the real purpose for which it was formed is in doubt, but those activities must be *intra vires*, and also, if of a non-charitable nature, merely ancillary to the main charitable purpose of the organisation. In the result, the Judge decided that the political activities of the Students' Union of the North London Polytechnic were no more than ancillary means by which the charitable purposes of the Union might be pursued.

(b) *In re Koeppler's Will Trusts* [1985] 2 All ER 869

In our report for 1984 (Appendix F(c), page 40), we noted the decision in *re Koeppler's Will Trusts* [1984] 2 WLR 973 where Mr Justice Peter Gibson held that the purposes of the gift were not charitable because they were too vague and uncertain to be amenable to the control of the Court. In 1985 the Attorney General appealed, and the Court of Appeal reversed the decision of the trial Judge holding that as the testator had defined the terms of his gift by reference to a particular well-defined project originated and carried on by him in a particular place at the date of the will, and as that project was to be construed as a "purpose trust" for educational purposes, the vague and therefore non-charitable terms of what the trial Judge had described as the "formation end" and the "promotion end" did not affect the gift from being



charitable, such terms not being contrary to the policy of the law. The true purpose of the gift was the furtherance of the work of the Wilton Park project which was charitable as being for the advancement of education.

(c) *Regina v District Auditor ex parte West Yorkshire Metropolitan County Council*, *The Times Newspaper* the 25 July 1985

In this case the West Yorkshire Metropolitan County Council paid £400,000 to the West Yorkshire Trust. This Trust was set up by the Council and one of its declared purposes was the dissemination of information about the proposed abolition of the Metropolitan County Council. The Court held that the declaration of trust was ineffective because it could not take effect either as a valid charitable trust, nor as an express private trust, there being no certainty as to the persons intended to benefit.

(d) *Harvela v Royal Trust Company of Canada (HL)* [1985] 2 All ER 966

In this case the Royal Trust of Canada invited two offerors to bid for its shares in A Harvey and Company Limited by making fixed bids. One of the offerors made a "referential" bid, that is to say, a bid was tendered at a certain sum above whatever was the other person's bid. It was held by the House of Lords, on the construction of the invitation by the Royal Trust Company of Canada, that this referential bid was invalid as it was inconsistent with the purpose of the sale by fixed bidding, which was to provoke the best price which prospective purchasers were prepared to pay regardless of what rival bidders were prepared to pay.

(e) *Street v Mountford* [1985] 2 WLR 877

By an agreement Mr Street granted Mrs Mountford the right to occupy two rooms for £37 per week subject to termination by 14 days' notice and subject to conditions set forth in the agreement which was entitled "licence agreement" and which contained a declaration signed by Mrs Mountford to the effect that she understood that the agreement did not give her a tenancy protected under the Rent Acts. The House of Lords nevertheless held in an action to determine the legal effect of the agreement, that where residential accommodation had been granted for a term at a rent with exclusive possession, the grantor providing neither attendance nor services, the legal consequence was the creation of a tenancy. Accordingly on its true construction, the agreement, notwithstanding the use of the word "licence", had the effect of creating a tenancy.

(f) *In re Finnart House School. DHSS v Norton and Others. Unreported*

In Appendix F(f) of our annual report for 1984 we reported the decision in a case before the courts which illustrated some of the legal problems which had arisen relating to the closure of voluntary community homes. In this case the court had to consider certain statutory provisions governing the recoupment of public moneys contributed towards the provision by voluntary bodies of community homes and in particular those that were formerly approved schools.

Finnart House at Oatlands Park, Weybridge was held under a scheme of the Commissioners of 20 April 1972 as a home to relieve children of the Jewish faith who are delinquent, deprived, sick, neglected or in need of care. The home, formerly run as an approved school, was used as a controlled

community home in accordance with the provisions of the Children and Young Persons Act 1969 (now contained in the Child Care Act 1980 as amended). Some six months before the 1980 Act came into force, the trustees gave notice under section 47(1) of the 1969 Act of their intention to cease to provide a controlled community home and the instrument of management was revoked by order of the Secretary of State. The house and premises were with the Commissioners' consent, subsequently sold in lots, some with newly acquired planning consent.

Several questions arose relevant to the application of the statutory recoupment provisions on the closure of voluntary community homes. The point of widest interest concerned the basis of the valuation for the purpose of assessing the repayments to be made when the instrument of management ceases to have effect arising under section 48 of the 1969 Act (re-enacted in section 44 of the 1980 Act) in respect of any increase in the value of the premises which is attributable to the expenditure of public money. Mr Justice Vinelott did not accept the contention that the increase in value of the premises which of public funds should be ascertained by reference to the value attributable to the premises on the hypothetical basis that they were sold for any purpose to which they could lawfully be put without any material alteration to or any development of the land. He decided that the value of the premises and that part of it, if any, attributable to the expenditure of public money was to be ascertained on the basis of market value. He took the view that, if a voluntary organisation buys a site out of its own moneys and public moneys are then spent in erecting buildings on it and if at the time when the premises cease to be used as a community home the market value of the premises is solely attributable to the development value of the site, no part being attributable to the buildings on it, it could not be said that on the community home ceasing to be a community home the voluntary organisation would take a benefit derived from the expenditure of public money.

## APPENDIX B

### (Paragraph 12)

#### LEGISLATION AFFECTING CHARITIES

##### (a) Finance Act 1985

The Finance Act 1985 raised the ceiling at which an individual who pays higher rate tax can claim tax relief in respect of covenanted payments to charities from £3,000 to £10,000; and abolished the 50p stamp duty payable on all deeds of covenant. The ad valorem duty formerly payable under section 74 of the Finance (1909-10) Act of 1910 on any conveyance or transfer operating as a voluntary disposition inter vivos was abolished (although such dispositions are still liable to a 50p fixed stamp duty). Although the stamp duty payable on documents appointing new trustees was also abolished, such documents of appointment, including schemes and orders of the Commissioners, still have to be adjudicated and stamped by the Inland Revenue even though no duty is payable.

*b) Local Government Act 1985*

The Local Government Act 1985 provided for the abolition of the Greater London Council and the Metropolitan County Councils on 1 April 1986 and for the establishment of a new directly elected Inner London Education Authority. As a consequence, the Act makes arrangements for a number of matters concerned with charities and other voluntary organisations.

Kenwood House (The Iveagh Bequest); Marble Hill House, Twickenham; and Rangers House, Greenwich, were transferred to the Historic Buildings and Monuments Commission for England on 1 April 1986. The Horniman and Geffrye Museums were transferred to the newly constituted Inner London Education Authority; and the Royal Festival Hall, the Queen Elizabeth Hall, the Purcell Room and, the National Theatre, the National Film Theatre and the Hayward Gallery became vested in the Arts Council of Great Britain on the same day.

Charitable property vested in the Greater London Council but administered through the former Inner London Education Authority vested in the newly constituted Authority on the transfer date. But as no new single Authorities have been created to replace those abolished, the Act does not make any further provision for the automatic transfer of trusteeship or power to appoint trustees to a successor Authority. The Act empowers the Secretary of State by Order to make such provision in relation to any charity as appears to him to be necessary or expedient in consequence of the abolition of the Greater London Council or the Metropolitan County Councils. The number of charities so affected, however, is small and does not in our view justify the making of such an Order. Alternative provision for the future trusteeship or power to appoint trustees of the charities which are affected by the abolition of the Greater London Council or the Metropolitan County Councils will, therefore, be made by scheme or order made under the Charities Act 1960 unless the trust instrument of the charities concerned already contains an adequate power of amendment.

*(c) Data Protection Act 1984*

The principal provisions of the Act were brought into force during 1985 and require all those who control the contents and use of automatically processed personal data, unless specifically exempted, to register under the Act and comply with data protection principles. Charities are not exempted and those which hold or process information about individuals in computing systems should consider whether they need to register. Enquiries should be addressed to the Data Protection Registrar, Springfield House, Water Lane, Wilmslow, Cheshire SK9 5AX.

**APPENDIX C**

**(Paragraphs 14 & 33)**

**(a) TP26—THE CHARITIES ACT 1985**

*Introduction*

1. The Charities Act 1985 which was brought into force on 1 January 1986:—

- (a) gives the Home Secretary power to impose a stricter duty on trustees of local charities for the relief of poverty in relation to the content of their accounts and imposes on the trustees of such charities duties concerning publicity for their accounts; and
- (b) introduces a simpler procedure for altering the objects of local charities for the relief of poverty; and
- (c) introduces a simpler procedure for the transfer of property of a charity having an annual income of £200 or less to another charity; and
- (d) enables very small charities to be wound up.

*Local Charities for the Relief of Poverty*

2. The expression “local charity for the relief of poverty” is used in the Act to refer to a registered charity, not being an ecclesiastical charity, whose sole or primary object is the relief of poverty and which was originally established in one or more parishes (or communities in Wales) or which is now established principally to benefit an area which is or falls wholly within not more than five adjoining parishes or communities or one county or Greater London.

*A. Accounts*

3. Section 1 of the Act enables the Home Secretary by regulations to require more detail in the accounts of local charities for the relief of poverty and to prescribe the form in which the statements are to be sent to the Commissioners: and to require such statements to include an itemised schedule of all property (with its estimated value) held for the purposes of the charity. Copies of the statements must also be sent to the appropriate local authority (the Council of the County or Metropolitan District or London Borough) who must keep them for at least two years during which time the public may inspect them and obtain copies on request. Until the accounts have been sent to the appropriate local authority the trustees must make them available for public inspection and provide copies on request. Where a charity is in default for over 12 months in submitting statements of account, anyone may make representations to the Commissioners who, if they think it is a proper case for their intervention, may exercise their jurisdiction to make Schemes for the effective administration of the charity or remove the trustees. These provisions do not apply to charities which are “exempt” under the Charities Act 1960.

*B. Alteration of Objects*

4. Under the provisions of section 2 of the Act trustees of local charities for the relief of poverty which have been founded for over 50 years may resolve **unanimously** to alter the objects of the charity if they are of the opinion that:—

- (a) the existing objects are obsolete or lacking in usefulness or impossible of achievement, and
- (b) an alteration of the objects is required so that the charity’s resources may be applied to better effect consistently with the spirit of the original gift.

[Section 2 applies only to registered charities but not exempt charities or charities which are companies or other bodies corporate.]

5. Before passing their resolution the trustees must be of the opinion that the new objects are not so dissimilar to the original objects as to constitute

an unjustifiable departure from the intentions of the founder or violate the spirit of the gift. The trustees are also required to take reasonable steps to secure the approval of any person identified as having been the founder of the charity.

6. Having passed the resolution, which must be in the form prescribed by the Act, the trustees are required to give public notice that they have done so, unless they consider this would serve no useful purpose. They are also required to send copies of the resolution to the Commissioners and to the appropriate local authority, with a statement of their reasons for seeking a change. Within three months (but not before six weeks) of receipt of the resolution, the Commissioners must either give the trustees and the local authority written notice of their concurrence; or notice that they need further time (not exceeding six months) to consider the case; or give notice that they do not concur with the resolution. The Commissioners must consider any representations made to them by local authorities or others who may have an interest; and the Commissioners may require the trustees to provide further information. If the Commissioners concur with the trustees' resolution, the trust instrument of the charity will be deemed to be so modified with effect from the date given in their written notice.

#### *Charities Irrespective of Purpose*

##### *A. Transfer of charity property to another charity*

7. Section 3 enables the trustees of any registered charity or charity which is not required to be registered (irrespective of its purposes or date of foundation) having a gross income of £200 or less in the last accounting period (of not less than 12 and not more than 15 months) to resolve **unanimously** to transfer the whole of the charity property (including land) to another charity. Property which was expendable as income in the hands of the transferring charity must be treated as expendable in the hands of the receiving charity; and any property which was not expendable (ie permanent endowment) must remain subject to the same restrictions. [Section 3 does not extend to charities which are companies or other bodies corporate or which are registered with the Registrar of Friendly Societies under the Industrial and Provident Societies Act 1965 or the Friendly Societies Act 1974].

8. Before passing their resolution, the trustees of the transferring charity must obtain written confirmation from the trustees of the receiving charity that the latter are willing to accept the transfer; and they must also be of the opinion that the objects of the receiving charity are not so dissimilar to the original objects as to depart unjustifiably from the intentions of the founder or violate the spirit of the gift. The consent of any identifiable founder must also be sought.

9. After passing their resolution, which must follow the form prescribed by the Act, the trustees are required to give public notice that they have done so, unless they consider that this would serve no useful purpose. They are also required to send copies to the Commissioners (and, if the charity concerned is a local charity for the relief of poverty, to the local authority) giving their reasons for wishing to transfer the property. Within three months (but not before six weeks) of receipt of the resolution the Commissioners must either give the trustees written notice that they concur with the transfer; or give notice

that they need further time (not exceeding six months) to consider the case; or give notice that they do not concur with the resolution. The Commissioners may require the trustees to provide additional information; and must consider any representations made to them by the local authority or others having an interest. On receipt of notice of the Commissioners' concurrence the trustees must transfer the property of the charity in accordance with the resolution.

#### *B. Winding up of very small permanently endowed charities*

10. Section 4 empowers trustees of permanently endowed charities whose endowment is worth £25 or less and which does not include land or an interest in land and whose income was £5 or less during the last preceding accounting period (of not less than 12 or not more than 15 months) to resolve **unanimously** to spend their capital as income if they are of the opinion that the property of the charity is too small in relation to its objects for any useful purpose to be achieved by the expenditure of income alone. This power is given to trustees of any such charity, irrespective of its purposes or date of foundation or whether or not it is registered. [But section 4 does not extend to any charity registered with the Registrar of Friendly Societies under the Industrial and Provident Societies Act 1965 or the Friendly Societies Act 1974].

11. Before passing their resolution the trustees are required to consider whether there is any reasonable possibility of transferring the charity's property to another charity under section 3 of the Act unless the costs of such a transfer would be unacceptable.

12. Having passed the resolution, which must follow the wording prescribed by the Act, the trustees must send a copy to the Commissioners, and are then empowered to expend the endowment of the charity in accordance with its objects. When the endowment is exhausted, the trustees of a registered charity are under a duty (section 4(6)(b) of the Charities Act 1960) to give notice that the charity has ceased to exist so that the central register may be amended.

#### *Further Information*

13. Trustees should not pass any resolutions altering the objects, or transferring property or winding up a charity, without first examining the Act or consulting the Commissioners.

The following leaflets giving fuller information about the new procedures and where relevant including specimen forms of resolution may be obtained, free of charge, from the Commissioners' offices:

Charity Accounts: requirements of the Charities Acts 1960 and 1985 (TP25)

Alteration of objects of local charities for the poor (TP23)

The transfer of property to another charity and the winding up of very small charities (TP24).

(b) TP23—CHARITIES ACT 1985

ALTERATION OF OBJECTS OF LOCAL CHARITIES  
FOR THE POOR

*Introduction*

1. A simpler procedure for modifying the objects of some local charities for the benefit of the poor introduced by the Charities Act 1985 was brought into force on 1 January 1986. This leaflet explains which charities can take advantage of these provisions and what trustees have to do to effect a change in their trusts.

2. Details of other provisions of the Act imposing a stricter duty on trustees of local charities for the poor in relation to their accounts; introducing a simpler procedure for the transfer of property from one charity to another; and enabling very small charities to be wound up, may be obtained, free of charge, from the Commissioners' offices.

*Charities whose Objects may be Altered*

3. The simpler procedure for the alteration of objects may be used only by a local charity for the relief of poverty which is neither a company, other body corporate or an exempt charity\* and was founded more than 50 years ago or, where a number of charities are jointly administered under a Scheme of the Court or Commissioners, each of the charities was founded more than 50 years ago. A local charity for the relief of poverty is one which:

- (i) is registered as a charity;
- (ii) is founded solely, or primarily, for the relief of poverty but is not for the benefit of members of a particular church or denomination; and
- (iii) is now established for purposes directed wholly or mainly to the benefit of a particular area in England and Wales being no more than five adjoining civil or ecclesiastical parishes (or communities in Wales) or any one county or Greater London, or was originally established to benefit one or more specified parishes.

*Prior Considerations*

4. The Act allows the trustees of such a charity to change its objects by passing a resolution to do so. Before passing the resolution the trustees must have come to the **unanimous** conclusion—

- (a) that the objects of the charity may fairly be considered obsolete or lacking in usefulness, or impossible of achievement, having regard to the period that has elapsed since the charity was founded, the social and economic changes that have taken place in that period, and any other circumstances (if any) relevant to the functioning and administration of the charity;

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\* Exempt charities are detailed in the Second Schedule to the Charities Act 1960 and are for the most part large institutions for which Parliament has provided other supervision, for example the principal universities and museums, but they also include any charity which is either a registered society within the meaning of the Industrial and Provident Societies Act 1965 or a registered society or branch within the meaning of the Friendly Societies Act 1974.

**and**

- (b) that an alteration of the charity's objects is required so that the charity's resources may be applied to better effect consistently with the spirit of the original gift.

*Spirit of the Gift: Approval of the Founder*

5. The new objects must be charitable and the trustees must be of the opinion that they are not so different in character from those of the original gift that the proposed alteration would be an unjustifiable departure from the intentions of the founder or violate the spirit of the gift. The trustees are also required to take any reasonable steps open to them to secure the approval of any person identifiable as having been the founder of the charity.

*Nature of New Objects*

6. The nature of the new objects is a matter for the trustees having regard to the spirit of the gift. It may, however, be helpful to explain that other than in very unusual circumstances the Commissioners would not normally concur with any proposed alterations which would allow income applicable for the relief of poverty to be diverted to an altogether dissimilar purpose such as the advancement of religion or education. The matter is essentially one for the trustees but where the trustees propose to adopt purposes significantly different from the relief of need, hardship and distress of persons resident in the locality and its vicinity, they may welcome the preliminary views of the Commissioners on the proposed new purposes before formally resolving to adopt them.

*Form of Resolution and Public Notice*

7. The trustees' resolution modifying the objects **must be unanimous** and in the form set out in the Act (duplicated in the Appendix to this leaflet) or as near to it as circumstances permit. Having passed the resolution the trustees must give public notice that they have done so unless they are of the opinion that this would serve no useful purposes. The Act does not specify what form of notice should be given but leaves this to the trustees to decide what is reasonable and justified in the light of the resources of the charity and its area of benefit.

*Copies of Resolution to the Commissioners and Local Authorities*

8. Copies of the trustees' resolution must be sent to the Commissioners and to the "appropriate local authority" together with a statement of their reasons for being of the opinions specified in paragraphs 4(a) and (b) and 5 of this leaflet. Details of the publicity given to the resolution together with a copy of the charity's latest accounts, if not already filed, should also be forwarded to the Commissioners. The "appropriate local authority" is the council of a non-metropolitan county, metropolitan district or London borough or the Common Council of the City of London in whose area the charity operates.

9. A specimen form of resolution including a check-list of the action which should be taken is enclosed as a pink, centre-fold for use by trustees if they wish.



*Commissioners' Agreement: Objections*

10. Within a period beginning not less than six weeks from the receipt of the resolution and ending not more than three months after that date, the Commissioners must either

- (i) give the trustees written notice that they concur with the proposed modification, or
- (ii) give notice that they require further time (not exceeding six months) to consider the case, or
- (iii) give notice that they do not concur with the resolution.

Local authorities or others who may have an interest may make representations to the Commissioners and the Commissioners themselves may require the trustees to provide further information.

*Effect of Agreement: Date of Alteration*

11. The trusts of the charity are modified in accordance with the terms of the trustees' resolution from the date specified by the Commissioners in their notice of agreement.

*Amendment to Central Register of Charities*

12. Where the Commissioners concur with the trustees' resolution they will amend the Central Register of Charities to show the new objects, without any further action on the part of the trustees.

**Appendix**

**FORM OF RESOLUTION BY CHARITY TRUSTEES UNDER  
SECTION 2 OF THE CHARITIES ACT 1985**

WHEREAS we are the trustees of the \_\_\_\_\_ Charity,  
being a charity to which section 2 of the Charities Act 1985 applies:

AND WHEREAS we are of the opinion—

(a)\* that the objects of the charity may fairly be considered obsolete or lacking in usefulness, or impossible of achievement, having regard to the period that has elapsed since the charity was founded, the social and economic changes that have taken place in that period and other circumstances relative to the functioning and administration of the charity, as follows

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\* Delete any words or phrases not applicable.

(relevant circumstances, if any to be specified)

and

(b) that an alteration of the charity's objects, as set out in \_\_\_\_\_

(here specify the applicable trust instrument)

is required in order that the charity's resources may be applied to better effect, consistently with the spirit of the original gift:

AND WHEREAS alternative objects, being in law charitable, are specified in the schedule to this resolution and are in our opinion not so far dissimilar in character to those of the original charitable gift that this modification of the Charity's trust would constitute an unjustifiable departure from the intentions of the founder of the charity, or violate the spirit of the gift:

AND WHEREAS we have complied with section 2(4) of the said Act of 1985:

NOW THEREFORE we, the trustees of the said charity, under and in pursuance of section 2 of the Charities Act 1985, hereby resolve that the trusts of the charity be modified by replacing the objects set out in the trust instrument by the alternative objects specified in the schedule.

Signed: \_\_\_\_\_

\_\_\_\_\_

TRUSTEES OF THE \_\_\_\_\_ CHARITY

Schedule to this Resolution

ALTERNATIVE OBJECTS PROPOSED TO REPLACE THOSE SET  
OUT IN THE TRUST INSTRUMENT

Centre-fold

[reproduced in part]

CHECK LIST

When sending a copy of the resolution to the Commissioners, please ensure that:—

- The resolution has been signed by **ALL** the Trustees
- A statement of the trustees' reasons for being of the opinions specified in paragraphs 4 and 5 of leaflet TP23 is enclosed.
- A copy of the latest statement of accounts is enclosed if not already filed with the Commissioners.
- Details of the publicity given to the resolution are enclosed, if applicable (paragraph 7 of leaflet TP23).

A copy of the resolution and a copy of the statement of the trustees' reasons have been sent to the appropriate local authority (paragraph 8 of TP23).

The registered number of the Charity is quoted.

### (c) TP24—THE CHARITIES ACT 1985

#### TRANSFER OF PROPERTY TO ANOTHER CHARITY

##### WINDING UP OF VERY SMALL CHARITIES

###### *Introduction*

1. A simpler procedure for the transfer of property from one charity to another, and provisions which enable very small charities to be wound up, introduced by the Charities Act 1985, were brought into force on 1 January 1986. This leaflet explains which charities can take advantage of these provisions and what trustees have to do to transfer their assets or wind up their trust.

2. Details of other provisions of the Act imposing a stricter duty on trustees of local charities for the poor in relation to their accounts and introducing a simpler procedure for modifying the objects of those charities, may be obtained, free of charge, from the Commissioners' offices.

###### *Transfer of Charity Property to another Charity*

3. Any charity regardless of its purposes or date of foundation may use the simpler procedure for transferring its whole property to another registered charity or a charity that is not required to be registered,\* provided that the transferring charity:

- (i) is registered as a charity or is not required to be registered,\* and
- (ii) is neither a company, other body corporate or a registered society within the meaning of the Industrial and Provident Societies Act 1965 or a registered society or branch within the meaning of the Friendly Societies Act 1974; and
- (iii) its gross income in the previous accounting period (that is, a period of not more than 15 or not less than 12 months) is £200 or less.

###### *Prior Considerations*

4. The Act allows the trustees of such a charity to transfer its property by passing a resolution to do so. Before passing a resolution (**which must be unanimous**), the trustees of the transferring charity must:

- (i) obtain written confirmation from the trustees of the receiving charity that they are willing to accept the transfer;

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\* If a charity is not registered under section 4 of the Charities Act and the trustees are not certain whether it is required to be registered, details of the classes of charity which are excepted from this obligation may be obtained from the Commissioners in leaflet RE4 free of charge.

- (ii) be of the opinion that the objects for which the transferred property would be held would not be so dissimilar to the objects of the transferring charity as to depart unjustifiably from the intentions of the founder of the transferring charity or violate the spirit of the gift; and
- (iii) take any reasonable steps open to them to secure the approval to the proposed transfer of any person identifiable as having been the founder of the charity.

#### *Nature of Receiving Charity*

5. The choice of charity to receive the assets is entirely a matter for the trustees of the transferring charity having regard to the spirit of the gift—but the receiving charity must be registered (or not required to be registered under the provisions of the Charities Act 1960). Since the transferred property will be held and applied for the purposes of the receiving charity the Commissioners would expect, in the majority of cases, the purposes of transferring and receiving charities to lie in the same field—for example, they would expect the assets of charities for the advancement of the beliefs of a particular denomination to be transferred to another religious charity within that denomination. Similarly, charities solely for the relief of the poor of a particular area or of a particular group would need to be amalgamated with charities which also relieve poverty in that area or group. Although the matter is essentially one for the trustees, they may welcome the preliminary views of the Commissioners on the proposal before finally resolving to transfer the property of the charity.

#### *Form of Resolution and Public Notice*

6. The resolution to transfer the charity property to another charity **must be unanimous** and in the form set out in the Act (duplicated in Appendix A to this leaflet), or as near to it as circumstances permit. After passing the resolution, the trustees must give public notice that they have done so unless they are of the opinion that this would serve no useful purposes. The Act does not say what form of public notice should be given but leaves it to the trustees to decide what is reasonable and justified in the light of the resources of the charity and the extent of its area of benefit.

#### *Copies of Resolution to Commissioners and Local Authorities*

7. A copy of the trustees' resolution must be sent to the Commissioners and also, if the charity concerned is a "local charity for the relief of poverty" to the "appropriate local authority" together with a statement of their reasons for wishing to transfer the property. Details of the publicity given to the resolution together with a copy of the charity's latest accounts, if not already filed, should also be forwarded to the Commissioners. Where one or both of the charities is not registered a copy of the document setting out the trusts of the charity should be forwarded with the resolution.

8. A local charity for the relief of poverty for the purposes of the Act is one which:

- (i) is registered as a charity but is neither a company, other body corporate or an exempt charity;\*
- (ii) is founded solely, or primarily, for the relief of poverty but is not for the benefit of members of a particular church or denomination; and
- (iii) is now established for purposes directed wholly or mainly to the benefit of a particular area in England and Wales being no more than five adjoining civil or ecclesiastical parishes (or communities in Wales) or any one county or Greater London, or was originally established to benefit one or more specified parishes.

9. The “appropriate local authority” is the council of a non-metropolitan county, metropolitan district or London Borough or the Common Council of the City of London in whose area the charity operates.

10. A specimen form of resolution including a check list of the action which should be taken is enclosed as the green centrefold for use by trustees if they wish.

*Commissioners’ Agreement: Objections*

11. Within a period beginning not less than six weeks from the receipt of the trustees’ resolution and ending not more than three months after that date, the Commissioners must either:

- (i) give the trustees written notice that they concur with the resolution, or
- (ii) request further time (not exceeding six months) to consider the case, or
- (ii) give notice that they do not concur with the resolution.

12. Local authorities or others who may have an interest may make representations to the Commissioners and the Commissioners themselves may require the trustees to provide further information.

*Procedure after Agreement*

13. It is important to note that the transfer of charity property is not achieved automatically through the Commissioners’ concurrence with the trustees’ resolution. The Act requires trustees to take steps to transfer the whole of the property to the receiving charity on receipt of the notice of concurrence. Advice on the procedures which the trustees will need to take to effect the transfer will be available on request. The Commissioners may be able to assist in the transfer of any land or interest in land (such as a rentcharge) by making a Vesting Order.

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\* **Exempt charities** are detailed in the Second Schedule to the Charities Act 1960 and are for the most part large institutions for which Parliament has provided other supervision, for example the principal universities and museums, but they also include any charity which is either a registered society within the meaning of the Industrial and Provident Societies Act 1965 or a registered society or branch within the meaning of the Friendly Societies Act 1974.

#### *Use of Property Subsequent to Transfer*

14. All the property transferred to the receiving charity will be held and applied for the purposes of that charity. But although property which could be spent as income in the hands of the transferring charity is also expendable in the hands of the receiving charity, any property which is not expendable (capital) will remain subject to the same restrictions. The trustees of the transferring charity should at the time of the transfer inform the trustees of the receiving charity in writing whether or not the transferred property is expendable.

#### *Amendment of Central Register of Charities*

15. When all the property has been transferred the trustees are under a duty (section 4(6)(b) of the Charities Act 1960) to give notice to the Commissioners that the charity has ceased to exist so that the Central Register may be amended. A statement of account drawn up to the date of transfer should be forwarded to the Commissioners together with the notice.

### WINDING UP OF VERY SMALL PERMANENTLY ENDOWED CHARITIES

#### *Charities which may be Wound Up*

16. The trustees of permanently endowed charities whose endowment is worth £25 or less and which does not consist of or comprise any land or interest in land **and** whose income was £5 or less during the last preceding accounting period (of not less than 12 and not more than 15 months) may resolve **unanimously** that the charity may spend its capital as income. This power is open to the trustees of any such charity, irrespective of its purposes or date of foundation or whether or not it is registered; but it does not apply where the charity is a registered society within the meaning of the Industrial and Provident Societies Act 1965 or a registered society or branch within the meaning of the Friendly Societies Act 1974.

#### *Prior Considerations*

17. Before passing such a resolution, the trustees must be of the opinion that the property of the charity is too small in relation to its objects, for any useful purpose to be achieved by the expenditure of income alone. They must also consider whether there is any reasonable possibility of transferring the charity's property to another charity (see paragraphs 3 to 14 above) disregarding any possible transfer which would be unacceptably costly.

#### *Form of Resolution*

18. The trustees' resolution winding up the charity **must be unanimous** and in the form set out in the Act (duplicated in Appendix B to this leaflet), or as near as possible to it as circumstances may permit.

#### *Copies of Resolution to be Sent to the Commissioners*

19. Having passed the resolution, the trustees must send a copy to the Commissioners. The trustees are then free to expend the permanent endowment of the charity for its purposes without any action on the Commissioners' part.

A specimen form of resolution including a check list of action which should be taken is enclosed as the blue centrefold for use by trustees if they wish.

*Central Register of Charities*

20. When the endowment has been exhausted, the trustees are required by section 4(6)(b) of the Charities Act 1960 to give notice to the Commissioners that the charity has ceased to exist so that the Central Register of Charities may be amended. A copy of the final accounts or statement of expenditure on winding up should be forwarded with the notification.

**Appendix A**

**FORM OF RESOLUTION BY CHARITY TRUSTEES UNDER  
SECTION 3 OF THE CHARITIES ACT 1985**

WHEREAS we are the trustees of the \_\_\_\_\_ Charity,  
of which the gross income in the preceding accounting period was £ \_\_\_\_ :

AND WHEREAS we think it expedient that the whole property of the charity  
be transferred to another charity, to be held and applied for, and as property  
of, that other charity:

AND WHEREAS we have obtained from the trustees of the \_\_\_\_\_  
\_\_\_\_\_ (**here name proposed transferee charity**),  
written confirmation that they are willing to accept a transfer of property under  
section 3 of the Charities Act 1985:

AND WHEREAS we have formed the opinion that the objects of the \_\_\_\_\_  
\_\_\_\_\_ Charity are not so far  
dissimilar in character to those of the original charitable gift that the proposed  
transfer would constitute an unjustifiable departure from the intentions of the  
founder of the \_\_\_\_\_ Charity or violate the spirit of the gift:

AND WHEREAS we have complied with section 3(3) of the said Act of 1985:

NOW THEREFORE we, the trustees of the \_\_\_\_\_  
Charity, under and in pursuance of section 3 of the Charities Act 1985, hereby  
resolve that the whole property of the charity, including its permanent endow-  
ment, be transferred to the \_\_\_\_\_ Charity.

Signed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TRUSTEES OF THE \_\_\_\_\_ CHARITY

Centre-fold

[reproduced in part]

**CHECK LIST**

When sending a copy of the resolution to the Commissioners, please ensure  
that:—

The resolution has been signed by **ALL** the Trustees.

- A statement of the trustees' reasons for wishing to transfer the property is enclosed.
- A copy of the latest statement of accounts is enclosed, if not already filed with the Commissioners.
- Details of the publicity given to the resolution are enclosed, if applicable (see paragraph 6 of TP24).
- If the charity is a local charity for the relief of poverty, a copy of the resolution and the statement of the trustees' reasons have been sent to the appropriate local authority (see paragraphs 8 and 9 of TP24).
- If the transferring charity and the receiving charity are registered with the Commissioners, the registered numbers of the charities are quoted.
- OR
- If either the transferring charity or the receiving charity is not registered, a copy of the governing instrument(s) is enclosed with the resolution.

#### Appendix B

#### FORM OF RESOLUTION BY CHARITY TRUSTEES UNDER SECTION 4 OF THE CHARITIES ACT 1985

WHEREAS we are the trustees of the \_\_\_\_\_ Charity:

AND WHEREAS the value of the charity's permanent endowment is £ \_\_\_\_\_ (or thereabouts), and the endowment does not consist of or comprise land or any interest in land, and its gross income in the last preceding accounting period was £ \_\_\_\_\_ :

AND WHEREAS we are of the opinion that the property of the charity is too small, in relation to its objects, for any useful purpose to be achieved by the expenditure of income alone:

AND WHEREAS we have complied with section 4(2) of the Charities Act 1985:

NOW THEREFORE we, the trustees of the said charity, under and in pursuance of section 4 of the Charities Act 1985, hereby resolve that the charity ought to be freed from any restrictions imposed by law with respect to expenditure of capital.

Signed: \_\_\_\_\_

\_\_\_\_\_  
 TRUSTEES OF THE \_\_\_\_\_ CHARITY

Centre-fold

[reproduced in part]

#### CHECK LIST

When sending a copy of the resolution to the Commissioners, please ensure that:—

The resolution has been signed by **ALL** the Trustees.



The trustees have considered whether the property could be transferred to another charity.   
If registered, the registration number of the charity is quoted.

#### (d) TP27—THE PROVISION OF ALCOHOL ON CHARITY PREMISES

##### *Introduction*

1. Providing alcohol on charity premises—either to improve facilities provided by the charity or as a ready source of funds—can be an attractive proposition. Nevertheless, the provision of alcohol poses serious problems, legal and practical, and requires careful thought. This leaflet explains briefly what those problems are and what trustees may do within the limits allowed by the law. In all cases, however, where it is decided to introduce the provision of alcohol on charity premises, whether directly by the trustees, charitable organisations which use the premises or by non-charitable bodies which hire the premises, trustees should first consult their solicitors and inform the Charity Commissioners.

2. The sale of alcohol is strictly controlled by the licensing laws (the Licensing Act 1964 and the Licensing (Occasional Permissions) Act 1983) although there is nothing in these laws to prevent the provision of alcohol free of charge to persons on charity premises—for instance a free glass of wine at a fund-raising or social event provided that the cost is not included in any admission charge. There may however be local opposition to the consumption of alcohol on charity premises or legal restrictions prohibiting its provision or consumption in the deeds relating to the charity premises or in the trusts of the charity.

##### *Local Objections*

3. Opposition to the occasional provision of alcohol is not likely to be strong but can occur. Opposition to the sale or consumption of alcohol on a more permanent basis however can be fierce. Complaint may be made by those living nearby who fear disturbance, by persons using the charity's facilities who disapprove on moral or religious grounds or object that other activities may be adversely affected or displaced, or by local landlords of public houses who regard the proposal as unfair competition. Trustees, as well as organisations which have the use of the charity's premises must, therefore, be confident that the proposal to provide or sell alcohol has general consent—an Annual General or Special General Meeting can provide a useful way of airing the subject if the trustees are empowered or required to hold one.

##### *Restrictions on the use of the Premises*

4. The title deeds and trusts of the charity need to be studied carefully and advice taken from the trustees' solicitors or the Commissioners. A restriction on the sale or consumption of alcohol may be imposed by the trusts of the Charity and/or by way of restrictive covenant in the title deeds of the Charity's premises. If the trusts of the charity prevent the sale or consumption of alcohol then it may be possible for the Commissioners to make a Scheme removing the prohibition if the trustees are able to demonstrate that without the removal

of this restriction it will not be possible to further the purposes of the charity as fully as possible. If, however, the restriction is in the form of a covenant the Commissioners have no power to vary it and, if it is not possible to obtain a release of the covenant from the person who has its benefit, then the only recourse may be an application to the Land Tribunal; for this the trustees will need to consult their solicitors.

#### *Licensing Laws and the Sale of Alcohol*

5. The licensing laws regulate the sale of alcohol. So far as charities are concerned, the relevant types of licence are:—

- (a) A justices' on-licence which may be granted in respect of particular premises to an individual (perhaps one of the trustees) authorising the sale of alcohol for consumption either on or off the designated premises within specified hours (the permitted opening hours). A condition may be imposed which prevents sales for consumption off the premises—effectively restricting sales solely for consumption on the premises.
- (b) an occasional licence which may be granted to the holder of an on-licence authorising the sale of intoxicating liquor at premises other than those to which the on-licence extends. Such a licence would, for instance, enable alcohol to be sold by a publican at a social function held on charity premises during the hours specified on the licence (which may be outside the normal permitted opening hours).
- (c) an occasional permission which may be granted by the local licensing justices to the representative of a charity or an organisation using the charity's premises to sell alcohol at functions held in connection with the charity's activities. Each such permission runs for a period of no more than 24 hours and no more than four permissions may be granted in any twelve-month period. Such a permission enables the sale of alcohol to be undertaken directly by the charity or by organisations using the charity's premises on a limited number of occasions without engaging the services of the holder of an on-licence. The permission specifies the place where, and conditions under which, the alcohol may be sold. The place must be suitable and not likely to cause disturbance or annoyance or any disorderly conduct. The Welsh Sunday closing laws cannot be disregarded.

In addition to these licensing arrangements, certain members' clubs may obtain a club registration certificate from the local magistrates' court entitling the supply of alcohol to their members for consumption on the premises without the authority of a licence. With the sole exception of miners' welfare institutions which are specifically permitted to be registered as clubs under the Licensing Act 1964, charities, including village halls which have been converted from miners' welfare institutions on the closure of the local colliery, are excluded from these provisions. Charities cannot take the form of private societies with a restricted membership. Club registration must therefore be in relation to a society distinct and separate from the charity with which it may be connected.

#### *Charity Law*

6. The provision of facilities for social drinking is not, of itself, a charitable purpose. It would, therefore, be a breach of trust if trustees allowed the activities of a charity to become primarily directed to the provision of such

facilities. It is however permissible (providing the charity trusts and the covenants affecting its premises permit and the demands of a bar do not significantly affect adversely the use of the premises for the purposes of the charity) for the charity trustees to allow the sale of alcohol in a manner secondary or incidental to the main purpose of the charity. For example, where a village hall or community association provides facilities to play games and sports, facilities for the purchase of alcohol could properly be provided for the participants. Similarly, there can be no objection to the sale or provision of alcohol at theatrical or other performances in charitable theatres, village halls or community associations if the facilities provide refreshment and a social focus within the premises for those attending. Occasional or incidental bars are nevertheless a minority and where, as is more often the case, it is intended that alcohol should be provided on a more continuous basis either primarily as a means of raising funds or to provide a social club for adult members of the community, the Commissioners strongly recommend that this should be done through the medium of a separate non-charitable club.

#### *Taxation*

7. The buying and selling of alcohol or the running of a bar is regarded as trading by the Inland Revenue. The profits arising from such trade are subject to tax (whether or not they are given to a charity or applied for charitable purposes) unless the trading is properly undertaken in carrying out the main purpose of the charity and the profits are applied solely to the charity's purposes. Members' clubs, however, are in a different position. Corporation tax is not charged on the profits of those clubs whose property (including alcohol) belongs to the members provided those profits arise from the supply of alcohol between members, although tax liability may arise where the facilities are extended to non-members. This "mutual trading" exemption arises in respect of both clubs which hold an on-licence and those which are registered under the Licensing Act.

8. In general, charities receive no special treatment in respect of Value Added Tax, and registration is required if their taxable turnover exceeds the statutory limit (at present £19,200)—the VAT Leaflet 701/1/84 entitled "Charities" gives further information and may be obtained from the nearest office of HM Customs and Excise whose address is in the local telephone directory.

#### *Separating the Bar*

9. Where it is proposed to provide alcohol on a permanent basis through the establishment of an independent club, the advice of the Commissioners and the trustees' solicitors will need to be obtained with regard to the arrangements under which the club will occupy part of the charity's premises.

10. A club may be granted a registration certificate only in respect of premises habitually used and occupied by it; and a certificate will be granted only if the purchase and supply of alcohol is managed either by the general body of members or by a committee elected by those members. This means that the club must be in occupation of a clearly identifiable part of the charity premises and that the parent charity cannot nominate a majority of the committee of the club so as to retain direct control over it. And, since one of the main reasons for the establishment of a bar may have been to provide a source of

income for the charity, it will be essential at the outset to formalise the financial arrangements between the two.

#### *Control of the Club*

11. There is always a danger that an independent club may interfere with the normal activities of the charity or, where it is a principal source of funding, exert undue pressure on the formulation of policies by the charity. Some degree of control by the parent charity is therefore desirable. The degree of control will however depend to some extent upon the way in which the club is constituted, and can, for example, be safeguarded to some extent by constituting the club in such a way that its membership can only be drawn from the membership of the parent charity which in turn has a power of expulsion. This will not be possible in all cases and charity trustees should seek legal advice about the best method of establishing a clear constitutional link appropriate to their particular circumstances, and about the execution of a deed of covenant in favour of the charity in respect of its profits.

#### *Occupation of the Premises*

12. There are two ways in which a separate club may occupy part of the charity premises. One method is to grant a club an occupation licence which gives it no legal interest in the property but sets out the terms upon which it may use part of the premises and the "rent" which should be paid. It can allow the club to use part or all of the premises between certain times on certain days of the week and this is a useful device where a part of the premises cannot readily be made available for the exclusive use of the club without adversely affecting their use for the purposes of the charity. The licence can also set out the circumstances in which it may be terminated; this offers a further method of control over the club's activities. Such a licence needs however to be drafted with care, if the inadvertent creation of a tenancy is to be avoided and trustees should seek the advice of their solicitors.

13. The other method is by lease. This has the disadvantage to the charity of giving the club security of tenure for a fixed period during which time the charity might find it difficult to alter its premises or to move to new ones. On the other hand if the club contemplates borrowing, for example, as is common, from a brewery, to set up a bar it may be sensible for a lease to be granted to the club. This is because the lender will almost certainly wish to take a charge on the premises as security for the loan and the Commissioners have difficulty in accepting that it is in the interests of the charity that its premises should be put at risk as security for a loan to a legally separate non-charitable club. If however the club is given a lease of part of the premises its leasehold interest can be charged as security by the non-charitable club without the Commissioners' intervention. But the grant of the lease by the charity is unlikely to be within the trustees' powers and an Order of the Commissioners is therefore likely to be needed to confer the necessary power to lease and to consent to the terms proposed. It is, therefore, advisable to inform the Commissioners of the intention to grant a lease in all cases.

14. The length of term of any proposed lease must be considered carefully by the trustees. In general, the Commissioners advise that a term should be kept fairly short—about 7–10 years—as it is difficult to envisage the future

needs of the charity over a longer period. Further, the club may be able to obtain extensions of its lease under the Landlord and Tenant Act 1954 although it is possible to prevent this by a joint application being made to the Court before the lease is granted. This precaution should be taken if the charity trustees are unable to exercise full control over the non-charitable club and, again, the Commissioners will need to be satisfied on this point before giving their consent to the proposal.

15. The grant of a lease (or a licence giving uninterrupted possession) will almost certainly mean that the club will be liable to pay rates in respect of that part of the premises it occupies.

#### *Further Information*

16. It is impossible in a short leaflet to deal with all the possible situations in which alcohol might be supplied on charity premises. Trustees are, therefore, urged to consult the Commissioners or their legal advisers before proceeding too far, particularly if alcohol is to be sold. Further information about taxation may be obtained from the Inland Revenue, Claims Branch, St John's House, Merton Road, Bootle, Merseyside, L69 9BB and the local office of HM Customs and Excise (in respect of VAT) whose address should be in the local telephone directory.

17. The National Federation of Community Organisations publishes two useful booklets specifically directed to the needs of community associations, called "Bars Charities and the Law" (price £4.50 to members, £9 to non-members) and "Charities and Social Clubs" (price £3 to members and non-members alike), which are obtainable from 8-9 Upper Street, Islington, London N1 0PQ. These booklets describe the advantages and disadvantages of the various arrangements mentioned in this leaflet and contain specimens of club rules, deeds of covenant and fuller information about the licensing laws. The National Council for Voluntary Organisations (26 Bedford Square, London, WC1B 3HU) publish a leaflet "Alcohol in Village Halls", price 75p plus postage.

### (e) TP25—CHARITIES ACTS 1960 AND 1985

#### CHARITY ACCOUNTS

##### *Introduction*

1. This leaflet summarises the main legal requirements of the Charities Acts 1960 and 1985 about the keeping of charity accounts, their transmission to the Charity Commissioners and the stricter duty imposed on trustees of local charities for the poor in relation to their accounts.

**Note: The Secretary of State is given new powers by the Charities Act 1985 to make further regulations governing the form and content of accounts for local charities for the relief of poverty. The regulations have not as yet been made.**

2. Briefly, charity trustees are under the following duties:

- (a) Trustees of all charities must keep proper books of account and prepare statements of account (see paragraph 3 below).

- (b) Trustees of all charities must preserve the financial records of the charities for at least seven years (see paragraph 4 below).
- (c) Trustees must comply with any audit requirement in the charity's trust instrument (see paragraph 5 below).
- (d) Unless excepted trustees of charities which are permanently endowed must send copies of their accounts to the Commissioners each year and trustees of other charities must do so on request (see paragraph 6(a) below).
- (e) Trustees of local charities for the poor must send copies of their accounts to the appropriate local authority, give public notice of the place the accounts can be inspected and until the accounts are sent to the local authority provide copies on request to any person (see paragraph 6(b) below).
- (f) Trustees of other parochial charities must send copies to the Parish Council or its equivalent (see paragraph 6(c) below).

#### *Form and Period of Accounts*

3. Section 32 of the Charities Act 1960 requires all charity trustees to keep proper books of account and to prepare consecutive statements of account consisting of an income and expenditure account relating to a period of not more than 15 months and a balance sheet relating to that period. The Charities (Statements of Account) Regulations 1960 (SI 1960/2425) prescribe further information which must be included in statements of account relating to charities which are required to be submitted to the Commissioners under section 8 of the Charities Act 1960 (see paragraph 6(a) below). Details of the information required by the regulations are given in Appendix A to this leaflet. Specimen forms which meet all the statutory requirements and which are obtainable from the Commissioners free of charge, fall into two categories—those intended to be used by charities with an annual income of less than £500 (form AC(A)) and a more elaborate form (AC(B)) for use by larger charities.

#### *Period of Retention*

4. The books and statements of account of all charities must be preserved for at least seven years unless the charity ceases to exist and the Commissioners permit them to be destroyed or otherwise disposed of (section 32(2) of the Charities Act 1960).

#### *Audit*

5. There is no statutory obligation under the Charities Acts 1960 and 1985 for the accounts of a charity to be audited but in some cases the trust instrument of a charity (will, trust deed, constitution etc) may require this to be done. An independent audit (even if not a professional one) is however strongly recommended. Charity trustees may also find it useful to refer to general guidance on different aspects of the financial administration of charities given in the form of a checklist (AC7) available from the Commissioners free of charge.

*Transmission of Accounts to the Commissioners and Local Authorities\*:  
Publicity*

6. (a) All charities—Section 8 of the Charities Act 1960 requires statements of account to be transmitted to the Commissioners by the trustees on request and, in the case of a charity having a permanent endowment, such a statement relating to the permanent endowment to be transmitted yearly without any request unless the charity is excepted by order or regulation. These statements of account are held by the Commissioners and are available for public inspection during normal office hours.
- (b) Local charities for the relief of poverty—Section 1 of the Charities Act 1985 requires that the statements of account of “local charities for the relief of poverty” (see Appendix B) shall, in addition to being sent to the Commissioners, be sent annually to the appropriate local authority (see footnote) who must keep them for at least two years during which time the public may inspect them and obtain copies from the local authority on payment of the cost of copying. Until the statements of account have been sent to the appropriate local authority the trustees must make them available for public inspection and provide copies on payment of a reasonable copying cost. The trustees must also give such public notice as they think reasonable and justified having regard to the resources of the charity and the extent of its area of benefit, of a place at which the statement can be inspected by members of the public.

*Note:* Further guidance and new specimen forms for local charities for the relief of poverty will be available from the Commissioners when the regulations governing their form and content have been made by the Secretary of State.

- (c) Parochial charities other than local charities for the relief of poverty—Section 32 of the Charities Act 1960 as affected by the Local Government Act 1972 and the Charities Act 1985 requires that the accounts of “parochial charities” other than ecclesiastical charities or local charities for the relief of poverty shall be sent to the Parish Council or, if there is no Parish Council, to the Chairman of the Parish Meeting. In Wales, the accounts must be sent to the Community Council (if any).

*Note:* Section 45(1) of the Charities Act 1960 defines “parochial charity” as meaning, in relation to any parish, a charity the benefits of which are, or the separate distribution of the benefits of which is, confined to the inhabitants of the parish, or of a single ancient ecclesiastical parish which included that parish or part of it, or of an area consisting of that parish with not more than four neighbouring parishes.

#### **Appendix A**

Regulations made under section 8 of the Charities Act 1960 require the following information to be set out in statements of account forwarded to the Commissioners:

---

\* The “appropriate” local authority is the council of a non-metropolitan county, metropolitan district or London Borough or the Common Council of the City of London in whose area the charity operates.

- (i) particulars of the assets of the charity, distinguishing between those forming part of the permanent endowment and other assets;
- (ii) the approximate amount of liabilities;
- (iii) the amount of the receipts and payments during the period, distinguishing between permanent endowment receipts and payments and others.

**Appendix B**

A local charity for the relief of poverty is defined in section 6 of the Charities Act 1985 as being a registered charity, not being an ecclesiastical charity, having the following characteristics:—

- (a) The sole or primary object of the charity is the relief of poverty (within any meaning given to that expression under the law of charitable trusts, as applied for the time being), and
- (b) it is established for purposes which are by their nature or by the trusts of the charity directed wholly or mainly to the benefit of a particular area in England and Wales (in this section referred to as “the area of benefit”), and—
  - (i) the area of benefit is, or falls wholly within, the area of not more than five adjoining parishes or of one county or of Greater London, or
  - (ii) the area that would have been the area of benefit when the charity was originally established or was, or fell wholly within, the area of one or more parishes specified in the trusts.

**Note:** A trust for the benefit of the members of a particular denomination, or church is an “ecclesiastical charity” and not a local charity for the relief of poverty even though the persons who benefit must be poor.

**APPENDIX D**

**(Paragraph 10)**

CHARITY COMMISSION

FOR OFFICIAL USE
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QUESTIONNAIRE FOR AN INSTITUTION APPLYING FOR  
REGISTRATION AS A CHARITY UNDER THE  
CHARITIES ACT 1960

Please tick the relevant boxes and give other information as required

Name of Institution .....



1a. Do the invested funds of the institution consist wholly or mainly of shares in a company or companies other than those dealt in on the Stock Exchange?

Yes  (Please give details) No   
..... No invested  
..... funds   
.....

b. If the answer to 1a is yes would you please say whether any of the trustees\* have a beneficial interest in or hold shares in any other capacity (whether in the name of nominees or otherwise) in that company or those companies.

Yes  No   
.....  
.....

2. Are any of the trustees related to each other by family or marriage?

Yes  (Please give details) No   
.....  
.....  
.....

3. Do the trustees as a body or a majority of them control, manage or otherwise administer any commercial organisation?

Yes  (Please give details) No   
.....  
.....  
.....

4. Is the applicant institution linked whether by contract, sponsorship or otherwise to any commercial organisation?

Yes  (Please give the name and address of No   
(each) organisation concerned)  
.....  
.....  
.....

5. Do the trustees use, or intend to use, paid agents or consultants to raise funds?

Yes  (Please give the name and address of No   
(each) agent or consultant)  
.....  
.....  
..... (continue on separate sheet if necessary)

6. Are any of the trustees or persons administering the institution also employees of the institution?

Yes  (Please give full details) No   
.....  
.....  
.....

---

\* The Trustees of a Charity means the persons having the general control and management of the Charity and includes Governors, Committees of Management and Boards of Directors.

7. Does the institution have a solicitor?  
Yes  (Please give full name and address) No   
.....  
.....  
.....

8. Does the institution have an accountant/auditor?  
Yes  (Please give full name and address) No   
.....  
.....  
.....

9. Please give details of the following (if held)—  
Bank accounts—BANK .....  
NAME OF A/C .....  
..... A/C NO.....  
BANK .....  
NAME OF A/C .....  
..... A/C NO.....  
Building Society account—SOCIETY .....  
NAME OF A/C.....  
..... A/C NO.....  
Other account .....

Signed on behalf of Charity ..... Date.....

---

FOR  
OFFICIAL  
USE

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OFFICIAL CUSTODIAN FOR CHARITIES

ACCOUNT showing the total cash received and payments of the Official Custodian for Charities in the year ended 31st December 1985 together with the balances of cash standing to his account at the commencement and close of the year.

Previous Year		CASH ACCOUNT		Previous Year	
£		£		£	
2,008,674	BALANCE ON 1ST JANUARY 1985	...	2,478,148	27,129,037	PAYMENTS:
17,580,964	RECEIPTS:	...	...	72,015,509	Purchase of investments
29,759,957	From trustees for investment	...	25,281,335	21,126,709	Dividends and interest remitted to trustees
73,355,512	From disposal of investments	...	39,132,399	127,836	Capital remitted to trustees
172,132	Dividends and interest from investments held	...	80,722,426	2,478,148	Miscellaneous
	Miscellaneous	...	151,357		BALANCE ON 31ST DECEMBER 1985
		...	...		122,877,239
		...	147,765,865		40,796,383
		...	...		80,276,058
		...	...		25,202,424
		...	...		201,628
		...	...		1,289,172
		...	...		147,765,865

ACCOUNT showing the total amounts of securities placed to the account of the Official Custodian for Charities and transferred therefrom in the six month period ended 30 June 1985 together with the balance of securities standing to his account at the commencement and close of the period.

SECURITIES ACCOUNT

	Balance on 1 January 1985	Transferred to Official Custodian	Transferred from Official Custodian	Balance on 30 June 1985
Sterling securities (nominal values) See Note 1	£482,440,777	£89,372,242	£53,472,143	£518,340,876
Annuities	789 Units	—	60 Units	729 Units
National Savings Certificates	180,259 Dollars	21,521 Dollars	27,225 Dollars	174,555 Dollars
Commonwealth and foreign securities (nominal values)	6,705 Dollars	—	—	6,705 Dollars
Australian Dollars	4,376 Dollars	—	—	4,376 Dollars
Bermudian Dollars	19,310 Florins	—	5,000 Florins	14,310 Florins
Canadian Dollars	1,083,870 Dollars	313,956 Dollars	13,750 Dollars	1,384,076 Dollars
Dutch Florins	59,571 Punt	—	—	59,571 Punt
Hong Kong Dollars	—	—	—	—
Irish Punt	17 Shekels	—	—	17 Shekels
Israeli Shekels	93,750 Roubles	—	—	93,750 Roubles
Roubles (Imperial)	2,400 Dollars	—	—	2,400 Dollars
Zimbabwe Dollars	46,240 Dollars	—	—	46,240 Dollars
Malaysian Dollars	2,530 Dollars	—	35,000 Dollars	11,240 Dollars
New Zealand Dollars	200 Dollars	—	—	2,530 Dollars
Singapore Dollars	12,857 Rands	205 Rands	3,894 Rands	200 Dollars
South African Rands	71,508 Dollars	2,024 Dollars	9,098 Dollars	9,168 Rands
U.S. Dollars	—	—	—	64,434 Dollars
Charitable investment funds:				
Charities Official Investment Fund	50,837,231 Income Shares	856,302 Income Shares	397,602 Income Shares	51,295,931 Income Shares
	2,487,662 Accumulation Shares	163,054 Accumulation Shares	66,574 Accumulation Shares	2,584,142 Accumulation Shares
Other funds	74,474,619 Income Shares	3,446,838 Income Shares	1,327,804 Income Shares	76,593,653 Income Shares
	4,452,675 Accumulation Shares	85,578 Accumulation Shares	993,755 Accumulation Shares	3,544,498 Accumulation Shares
Shares of no par value	79,307 Shares	1,480 Shares	10,944 Shares	69,843 Shares
Participation units	452 Units	—	—	452 Units
Unit trusts	58,861,766 Units	14,372,711 Units	2,480,129 Units	70,754,348 Units
Subscription warrants	317,585 Warrants	21,780 Warrants	27,112 Warrants	312,253 Warrants

NOTES TO SECURITIES ACCOUNTS

NOTE 1

Particulars of the nominal values of sterling stocks and securities shown as the first item in the Securities Account for the period ended 30th June 1985.

	1st January 1985 £	30th June 1985 £
<b>British Government Stocks (including Government Guaranteed Stocks):</b>		
Bank of England Register ... ..	348,111,127	375,310,568
National Savings Stock Register ... ..	829,115	997,239
Money employed at interest (including Savings Bank Deposits) ... ..	10,667,632	13,066,377
<b>Local Authorities</b>		
Stocks ... ..	11,170,543	10,134,323
Mortgages ... ..	4,552,881	4,462,371
Short Dated Bonds ... ..	1,374,877	1,336,527
Temporary Loans ... ..	1,660,507	2,876,864
British Railways ... ..	27,900	27,900
Water Companies ... ..	3,358,932	3,245,345
Canals, Docks and Harbours ... ..	382,886	378,001
Commonwealth Government and Corporation Stocks ... ..	2,306,895	2,315,681
Commonwealth Railways ... ..	26,820	26,820
Foreign Government and Municipal Funds ... ..	144,836	160,673
Foreign Railways ... ..	618	618
<b>Commercial, Industrial and other companies:</b>		
Loan Capital ... ..	42,857,893	43,921,193
Preference Stocks and Shares ... ..	1,489,109	2,572,695
Ordinary and Deferred Stocks and Shares ... ..	53,349,347	57,378,822
Real Securities ... ..	60,305	60,305
Sundry Securities (Building and Housing Societies, etc) ... ..	68,554	68,554
	<u>£482,440,777</u>	<u>£518,340,876</u>

ACCOUNT showing the total amounts of securities placed to the account of the Official Custodian for Charities and transferred therefrom in the six month period ended 31st December 1985 together with the balance of securities standing to his account at the commencement and close of the period.

SECURITIES ACCOUNT

	Balance on 1st July 1985	Transferred to Official Custodian Official Custodian	Transferred from Official Custodian Official Custodian	Balance on 31st December 1985
<i>British Investments:</i>				
Issued or guaranteed by the Government—				
Dated stocks	£387,794,585	£70,492,426	£103,828,823	£354,458,188
Undated stocks	£23,097,155	£145,385	£477,992	£22,765,048
Issued by Local Authorities—				
Dated stocks	£11,341,315	£319,665	£4,381,327	£7,479,653
Undated stocks	£949,827	£250	£3,399	£946,678
Mortgages and bonds	£4,452,913	£918,774	£1,187,612	£4,184,075
Temporary loans	£3,693,951	£2,665,708	£3,136,193	£3,225,466
Issued by other statutory authorities	£3,773,334	£343,676	£401,747	£3,715,263
Issued by Companies—				
Loan capital	£45,110,291	£11,722,848	£10,897,455	£45,935,684
Preference capital	2,933,103	1,909,683	1,364,702	3,478,084
Ordinary capital	188,128,201	45,724,729	39,089,589	194,763,341
Interest-bearing deposits	£14,171,227	£9,843,700	£8,075,325	£15,939,602
Real securities	£36,185	£2,054	£3,932	£34,307
Miscellaneous shares	21,803	20,100	5,995	35,908
Currency	£55,712	—	£109	£55,603
Annuities	£1,916	—	£12	£1,904
<i>Commonwealth Investments:</i>				
Government, Provincial and other Securities	£2,193,295	£319,066	£116,514	£2,395,847
Foreign Government, Municipal and other Securities	£147,487	£5,980	£20,535	£132,932
<i>Investments expressed in Other Currencies:</i>				
Shares of Commonwealth and foreign undertakings	1,293,848	107,404	312,979	1,088,273
Debentures				
Roubles (Imperial)	93,750	—	—	93,750
Irish Punt	47,696	—	17,571	30,125
U.S. Dollars	11,000	—	7,500	3,500
South African Rands	—	54	54	—

	Balance on 1st July 1985	Transferred to Official Custodian Official Custodian	Transferred from Official Custodian Official Custodian	Balance on 31st December 1985
<i>Investments not expressed in Currency:</i>				
National Savings Certificates	719 Units	—	—	719 Units
Charitable Investment Funds—				
Charities Official Investment Fund	51,295,931 Income Shares 2,584,142 Accumulation Shares	920,421 Income Shares 200,553 Accumulation Shares	461,098 Income Shares 20,550 Accumulation Shares	51,755,254 Income Shares 2,764,145 Accumulation Shares
Other Funds	76,348,167 Income Shares 3,619,061 Accumulation Shares	1,951,699 Income Shares 170,433 Accumulation Shares	342,780 Income Shares 348,100 Accumulation Shares	77,957,086 Income Shares 3,441,394 Accumulation Shares
Unit Trusts	68,408,676 Units	31,631,387 Units	18,066,776 Units	81,973,287 Units
Shares of No Par Value	5,195,922 Shares	9,945 Shares	5,138,890 Shares	66,977 Shares
Subscription Warrants	363,671 Warrants	169,701 Warrants	155,677 Warrants	377,695 Warrants
Participation Units	452 Units	—	—	452 Units

NOTE 2

Introduction of a computerised system during 1985 has enabled a change in the basis of accounting which has resulted in two securities accounts being included for the year ended 31st December 1985. For the six months to 30th June 1985 the securities account records total nominal amounts for each share type and is consistent with previous accounts. The securities account for the six months from 1st July 1985 records quantities expressed in units of holding or nominal values.

NOTE 3

Owing to problems arising from the transfer of data to the new computer system and the change in the basis of accounting for securities, the opening balances at 1st July 1985 are not an accurate reflection of the closing balances at 30th June 1985 from the manual system. The amounts transferred to and from the Official Custodian during the period 1st July 1985 to 31st December 1985 include many individual adjustments the total effect of which cannot be determined without disproportionate expenditure of time and effort. The balances at 31st December 1985 represent the securities held at that date.

The Seal of the Official Custodian for Charities was fixed hereto in the presence of

R. J. CRICK  
Official Custodian for Charities  
R. E. EDWARDS

25th APRIL 1986

Authorised under Section 3(4) of the Charities Act, 1960. Charity Commission, St Alban's House,  
57/60 Haymarket, London SW1Y 4QX.

CERTIFICATE OF COMPTROLLER AND AUDITOR GENERAL

I certify that I have examined the above Accounts. In my opinion the Cash Account properly presents the receipts and payments of the Official Custodian for Charities for the year ended 31 December 1985 and the Securities Account for the period ended 31 December 1985 properly states the securities standing to his account at that date. I have no observations to make.

NATIONAL AUDIT OFFICE

GORDON DOWNEY  
Comptroller and Auditor General

8th May 1986





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